

# Exhibit EEE

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01:24:23 1 Judge Kennelly, December 5, 2016, 1:25 p.m.

01:25:06 2 THE CLERK: 10 C 1168, Fields v. City.

01:27:45 3 THE COURT: All right. Are we good to go?

01:27:47 4 MR. KULWIN: Well, go ahead.

01:27:48 5 MR. LOEVY: We want to raise the Kuhn issue, your  
01:27:51 6 Honor.

01:27:52 7 THE COURT: Is he back?

01:27:54 8 MR. KULWIN: He is. And I talked to him over lunch  
01:27:56 9 and told him to come back at 1:30. Sorry, Judge.

01:28:00 10 MR. LOEVY: I had a chance to speak to him briefly,  
01:28:02 11 too. He hasn't looked or searched or done any looking yet.  
01:28:05 12 Your Honor, from our perspective, the issue is this. Those  
01:28:09 13 Murphy notes are important, those are the ones where it says  
01:28:13 14 -- you know the issue. So either the U.S. Attorney's Office  
01:28:15 15 has some original notes or they have no original notes. If  
01:28:18 16 they have some original notes, then we are going to want an  
01:28:21 17 explanation for why they have not these original notes. I  
01:28:25 18 think it might be based on our informal research, they might  
01:28:29 19 have no original notes. In which case we believe what's going  
01:28:32 20 on is the Chicago Police Department does not -- the U.S.  
01:28:34 21 Attorney's Office does not take custody of the original notes.  
01:28:36 22 So it will not be enough if he comes here and says I can't  
01:28:41 23 find these notes.

01:28:42 24 THE COURT: I would rather talk about what the  
01:28:43 25 consequences are once I hear what the guy has to say rather

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01:28:47 1 than go through this exercise of speculating.

01:28:50 2 MR. LOEVY: Okay. We are going to read two things  
01:28:53 3 and then discovery and then rest.

01:28:55 4 THE COURT: The criminal trial excerpt?

01:28:57 5 MR. LOEVY: Yes.

01:28:57 6 THE COURT: And discovery responses of some sort.

01:29:00 7 MR. LOEVY: Yes.

01:29:01 8 THE COURT: When you rest, you are going to say

01:29:03 9 subject to dealing with exhibits because we need to get

01:29:06 10 together and discuss what's in and what's not in.

01:29:08 11 MR. KULWIN: One other point of inquiry. Did I miss  
01:29:12 12 hear, I am sure I misheard, that Friday you have to miss some  
01:29:16 13 time for a conference?

01:29:17 14 THE COURT: It's possible, that I am going to have to  
01:29:20 15 miss part of the morning which given where it is in the  
01:29:23 16 morning might mean we just do an afternoon. You just do like  
01:29:27 17 a 12:00 to the end of the day or something like that.

01:29:29 18 MR. KULWIN: Just looking for a time.

01:29:35 19 THE COURT: It's really a crucial issue for people, I  
01:29:39 20 guess.

01:29:39 21 MR. KULWIN: For guys like me. You start to look  
01:29:44 22 like Bozo after a while.

01:29:49 23 What else?

01:29:49 24 MR. LOEVY: We are going to rest subject to. We did  
01:29:51 25 raise the law firm with you.

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01:29:53 1 THE COURT: What's that?

01:29:54 2 MR. LOEVY: An issue that we may call.

01:29:57 3 THE COURT: She is not available until later in the

01:29:58 4 week. I'll let you reopen for that.

01:30:01 5 MR. LOEVY: We have another stipulation out to them

01:30:04 6 for Kelly, but that will probably be rebuttal if we don't get

01:30:08 7 a stipulation. That's what we are reserving too.

01:30:10 8 THE COURT: Do you guys have witnesses?

01:30:11 9 MR. KULWIN: We do. I personally don't, but they are

01:30:17 10 in the record.

01:30:17 11 MR. LOEVY: Hopefully, we can start moving.

01:30:20 12 THE COURT: If he have a reader, they can come up.

01:30:37 13 MR. LOEVY: Judge, do you want to wait for Kuhn?

01:30:41 14 THE COURT: That clock is actually wrong. I have

01:30:43 15 five clocks. They all say different things, but that's the

01:30:47 16 slowest one. That gets out voted and the others are right.

01:30:56 17 MR. KULWIN: Mine says 1:29.

01:30:59 18 THE COURT: If he is not here in one minute, then

01:31:01 19 somebody is going to need -- when he comes in, if somebody

01:31:04 20 gives him a note saying he needs to be up here at.

01:31:08 21 MR. KULWIN: 3:00?

01:31:11 22 THE COURT: At 3:00 o'clock?

01:31:12 23 MR. KULWIN: Do you want me to text? I don't have to

01:31:16 24 be here for the reading. I'll do that.

01:31:33 25 (The jury enters the courtroom.) Sam h-e-p-p-e-l-l, lawyer,

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01:31:36 1 and Mark west is the reader

01:31:39 2 THE COURT: Next is going to be some more testimony  
01:31:42 3 from which criminal trial.

01:31:47 4 MR. HEPPELL: The 1986 criminal trial. Not the  
01:31:50 5 actual witness, not the actual questioner. It's the testimony  
01:31:52 6 of whom?

01:31:53 7 MR. HEPPELL: Torrence White, a portion from the  
01:31:56 8 liability phase and a portion from the sentencing phase.

01:31:58 9 THE COURT: You can proceed.

01:32:00 10 - - -

01:32:00 11 TORRENCE WHITE, DIRECT EXAMINATION, BY DEPOSITION

01:32:03 12 BY MR. HEPPELL: (Reading:)

01:32:03 13 Q. Sir, I would like you to state your name and spell your  
01:32:07 14 last name?

01:32:07 15 A. Torrence White.

01:32:08 16 Q. You have to speak up a lot louder than that. Okay?

01:32:11 17 How old are you, Mr. White?

01:32:13 18 A. 16.

01:32:13 19 Q. Are you a student?

01:32:14 20 A. Yes.

01:32:14 21 Q. Where do you go to school?

01:32:17 22 A. Wendell Phillips.

01:32:18 23 Q. What year are you?

01:32:19 24 A. I'll be a sophomore.

01:32:21 25 Q. Do you go out for any sports?

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01:32:22 1 A. Basketball and baseball.

01:32:25 2 Q. Where do you live, sir?

01:32:27 3 A. 706 East 39th Street.

01:32:28 4 Q. Which apartment?

01:32:29 5 A. 105.

01:32:31 6 Q. Calling your attention to April of 1984, where did you

01:32:35 7 live then?

01:32:36 8 A. 706 East 39th Street.

01:32:38 9 Q. How long had you lived there?

01:32:39 10 A. 16 years, all my life.

01:32:43 11 Q. In April of 1984, did you know a person by the name of

01:32:47 12 Fuddy?

01:32:48 13 A. Yes.

01:32:48 14 Q. How did you know him?

01:32:51 15 A. By my brother.

01:32:52 16 Q. Was he a friend of yours?

01:32:54 17 A. Yes, he was a good friend.

01:32:56 18 Q. You have to speak up, please.

01:32:57 19 How long had you known Fuddy?

01:32:58 20 A. About for a year.

01:33:00 21 Q. Did you know another person by the name of Tom?

01:33:04 22 A. Yes.

01:33:04 23 Q. Did you know his real name?

01:33:06 24 A. No.

01:33:07 25 Q. Do you know it now to be Talman Hickman?

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01:33:09 1 A. Yes.

01:33:09 2 Q. How long had you known Tom?

01:33:12 3 A. I've been knowing him for quite a while, about two or

01:33:16 4 three years.

01:33:17 5 Q. Was he also a friend of yours?

01:33:18 6 A. Yes.

01:33:19 7 Q. Do you know whether or not Fuddy was a head of or a member

01:33:24 8 of any gangs?

01:33:24 9 A. Yes.

01:33:25 10 Q. What gang?

01:33:27 11 A. Goon Squad.

01:33:29 12 Q. Calling your attention to about 10:15 in the morning of

01:33:32 13 April 28th, 1984, where were you?

01:33:35 14 A. Across the street from the 706 building.

01:33:37 15 Q. What were you doing?

01:33:38 16 A. Getting ready to play some baseball.

01:33:40 17 Q. What's located there?

01:33:42 18 A. The diamond, field diamond.

01:33:45 19 Q. Who were you with that morning?

01:33:47 20 A. Randy Langston, Carlos Willis.

01:33:50 21 Q. Was anybody else there on the field with you?

01:33:54 22 A. Yes, Randy's little nephew Mike, Michael.

01:33:57 23 Q. Where were you at that time in the field area?

01:34:01 24 A. I was by the Dimond gate.

01:34:02 25 Q. What was Randy doing?

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01:34:04 1 A. He was by the bench.

01:34:05 2 Q. Where was Carlos Willis?

01:34:06 3 A. He was about I would say one inch away from me. He was

01:34:10 4 just -- he was just throwing the ball around.

01:34:13 5 Q. You and he were throwing the ball around?

01:34:15 6 A. Yes.

01:34:16 7 Q. Was Randy participating in that?

01:34:17 8 A. He was standing with his little nephew Michael by the

01:34:22 9 bench.

01:34:22 10 Q. When you were out there in the baseball area, did you see

01:34:26 11 Fuddy or Tom?

01:34:26 12 A. No. I saw them when they came out of the house before I

01:34:30 13 came across the street.

01:34:32 14 Q. Where did you see them?

01:34:32 15 A. Under the building.

01:34:34 16 Q. Is that the 706 building?

01:34:35 17 A. Yes.

01:34:35 18 Q. While you were out there on the baseball diamond, did you

01:34:39 19 hear anything unusual?

01:34:40 20 A. Yes.

01:34:41 21 Q. What did you hear?

01:34:42 22 A. A shot.

01:34:43 23 Q. How many shots did you hear?

01:34:45 24 A. I heard one, then we started running, me and Randy and

01:34:49 25 Carlos, Randy picked up his little nephew Michael and we ran

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01:34:55 1 down Langley towards Oakwood.

01:34:57 2 Q. Did Randy run with you?

01:34:59 3 A. Yes.

01:34:59 4 Q. When you started running, was he right there with you?

01:35:02 5 A. He was behind me.

01:35:03 6 Q. How far behind you?

01:35:04 7 A. About two feet.

01:35:05 8 Q. And Carlos Willis, where was he?

01:35:08 9 A. He was behind Randy.

01:35:10 10 Q. How far did you run away from the building after you heard

01:35:15 11 the shots?

01:35:15 12 A. To that brown cottage across down there by Langley and

01:35:20 13 Oakwood.

01:35:20 14 Q. About how many blocks away is that?

01:35:23 15 A. That's one block.

01:35:24 16 Q. Did Randy run there with you?

01:35:26 17 A. Yes.

01:35:26 18 Q. After a period of time, did you return back to the

01:35:30 19 building?

01:35:30 20 A. Yes, when we saw people coming downstairs.

01:35:33 21 Q. When you returned back to the building, where was Randy?

01:35:37 22 A. He was coming with us.

01:35:38 23 Q. So Randy was with you the entire time?

01:35:41 24 A. Yes.

01:35:41 25 Q. And when you returned back to the building, did you see

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01:35:45 1 any bodies?

01:35:45 2 A. Yes.

01:35:46 3 Q. Those were whose bodies?

01:35:48 4 A. Fuddy and Tommy.

01:35:51 5 Q. And then people started to gather at that time?

01:35:53 6 A. Yes.

01:35:53 7 Q. Now, did the police speak with you on that day?

01:35:56 8 A. No.

01:35:57 9 Q. When is the first time that you spoke with the police?

01:35:59 10 A. A year later.

01:36:01 11 Q. By the way, do you know a person by the name of Richard

01:36:05 12 Buckles?

01:36:05 13 A. Yes.

01:36:06 14 Q. Do you know his nickname?

01:36:07 15 A. Yes.

01:36:07 16 Q. What's his nickname?

01:36:09 17 A. They call him bookie.

01:36:12 18 Q. Did you see him in the vicinity of the building at the

01:36:16 19 time you heard the shots?

01:36:17 20 A. No.

01:36:17 21 Q. Do you know a person by the name of Gerald Morris?

01:36:20 22 A. Yes.

01:36:21 23 Q. Do you know whether or not Gerald Morris is a member of a

01:36:25 24 gang?

01:36:25 25 A. Yes.

01:36:25 1 Q. What gang?

01:36:27 2 A. Goon Squad.

01:36:28 3 Q. In April of 1984, did you know whether Randy Langston was

01:36:34 4 a member of a gang?

01:36:36 5 A. Yes.

01:36:36 6 Q. What gang?

01:36:37 7 A. Goon Squad.

01:36:38 8 Q. And when was it that you first spoke with the police,

01:36:44 9 Mr. White?

01:36:44 10 A. It was a year later, they came to the --

01:36:46 11 Q. No, on May 18th of 1985, a year after the shooting, did

01:36:51 12 police come to your house?

01:36:52 13 A. Yes.

01:36:52 14 Q. And where did you go?

01:36:54 15 A. On 51st.

01:36:56 16 Q. What did you do when you were there?

01:36:58 17 A. They wanted -- they pointed out some mens and asked me did

01:37:04 18 I know them. I said no.

01:37:05 19 Q. When you went to that lineup, were you able to identify

01:37:09 20 anyone?

01:37:09 21 A. No.

01:37:10 22 Q. I would like to show you what's been previously marked as

01:37:14 23 Defense Exhibit number 6. Do you recognize what this photo

01:37:17 24 shows?

01:37:17 25 A. No.

01:37:18 1 Q. Do you recognize this to be the lineup?  
01:37:21 2 A. Yes. That's the lineup.  
01:37:23 3 Q. Is that the same lineup that you saw?  
01:37:25 4 A. Yes.  
01:37:25 5 Q. You were unable to make any identification?  
01:37:28 6 A. Yes.  
01:37:29 7 Q. Was that detective conducting the lineup with you?  
01:37:32 8 A. Yes.  
01:37:33 9 Q. Did he say anything with regard to picking anybody out in  
01:37:37 10 that lineup?  
01:37:39 11 A. Yes.  
01:37:39 12 Q. What did he say?  
01:37:40 13 A. He said that -- he said if I pick one of them out, they  
01:37:47 14 would help us by the projects.  
01:37:49 15 Q. Did he single anybody out when he said that to you?  
01:37:52 16 A. Yes.  
01:37:53 17 Q. How many times did he point to that man?  
01:37:56 18 A. About two or three times.  
01:37:59 19 Q. Now, do you know the defendant Earl Hawkins?  
01:38:03 20 A. No.  
01:38:03 21 Q. Do you know the defendant Nathson Fields?  
01:38:06 22 A. No.  
01:38:07 23 Q. Are you a member of the El Rukns?  
01:38:09 24 A. No.  
01:38:10 25 Q. Are you a member of any gang?

01:38:11 1 A. No.

01:38:16 2 - - -

01:38:16 3 TORRENCE WHITE, CROSS-EXAMINATION, BY DEPOSITION

01:38:16 4 BY MR. NOLAND: (Reading:)

01:38:22 5 Q. You had a conversation with that same detective just prior

01:38:25 6 to looking at the lineup, right?

01:38:27 7 A. Right.

01:38:27 8 Q. And in fact, when you looked at the lineup, didn't you

01:38:31 9 tell that detective that you had known Earl since he was a

01:38:33 10 baby?

01:38:34 11 A. No, I didn't. I didn't say that.

01:38:36 12 Q. You didn't say that.

01:38:37 13 Didn't you tell that same detective that you weren't

01:38:40 14 an El Rukn but the El Rukns are cool with you?

01:38:42 15 A. No, I didn't tell him that.

01:38:45 16 Q. You know some El Rukns, don't you? You know Assan

01:38:49 17 (phonetic)^ in dep trx, don't you?

01:38:49 18 A. Yes .

01:38:51 19 Q. Rode11 Banks, right?

01:38:53 20 A. Yes.

01:38:53 21 Q. You know Rode11 Banks very well, don't you? He comes to

01:38:57 22 your apartment all the time, doesn't he?

01:38:59 23 A. Not all the time.

01:39:00 24 Q. He comes to see your mother, doesn't he?

01:39:04 25 A. Yes.

01:39:04 1 Q. Rode11 Banks, has an is an El Rukn, isn't he?

01:39:08 2 A. Yes, I guess so. I don't know.

01:39:09 3 Q. Yes, you guess so? So you do know an El Rukn, don't you?

01:39:14 4 A. Yes.

01:39:14 5 Q. Assan, very well?

01:39:17 6 A. Not that well.

01:39:18 7 Q. He comes to see your mother, right?

01:39:19 8 A. Yes.

01:39:20 9 Q. 706 East 39th Street, he comes to see your mother, doesn't

01:39:29 10 he?

01:39:29 11 A. Yes.

01:39:29 12 Q. The same apartment you lived in in April when you say you

01:39:32 13 saw this shooting isn't that right?

01:39:34 14 A. Yes.

01:39:34 15 Q. The same apartment you live in today, right?

01:39:36 16 A. Right.

01:39:36 17 Q. The same apartment /HA\*Z, the El Rukn, comes to visit you

01:39:40 18 in?

01:39:40 19 A. Right.

01:39:41 20 Q. Are you telling us /HA\*Z is the only El Rukn you know?

01:39:45 21 A. Yes.

01:39:45 22 Q. Are you telling us /HA\*Z is the only El Rukn you know?

01:39:50 23 A. Yes.

01:39:51 24 Q. You know where the El Rukns stay, don't you?

01:39:54 25 A. What?

01:39:55 1 Q. You know where the El Rukn mosque is, don't you, the  
01:40:00 2 temple?  
01:40:00 3 A. Yes.  
01:40:00 4 Q. On 39th and Drexel, right?  
01:40:03 5 A. Yes.  
01:40:03 6 Q. You can see the temple when you look out your front  
01:40:07 7 window?  
01:40:07 8 A. No, I have to come out the door.  
01:40:09 9 Q. When you come out the door, you can see the El Rukn  
01:40:12 10 temple, right?  
01:40:12 11 A. Yes.  
01:40:13 12 Q. You know /HA\*Z goes to that temple, don't you?  
01:40:16 13 A. Yes.  
01:40:16 14 Q. You know Carlos is coming today to testify?  
01:40:24 15 A. Yes, I knew.  
01:40:25 16 Q. Through him, did he tell you or did they tell you?  
01:40:29 17 A. No, Carlos told me.  
01:40:31 18 Q. Carlos told you. Carlos told you I'm coming to testify,  
01:40:39 19 right?  
01:40:39 20 A. No. Friday when I saw him, he told me he was coming on  
01:40:45 21 Monday.  
01:40:45 22 Q. He told you he was going to testify here today, right?  
01:40:48 23 A. Yes.  
01:40:48 24 Q. And you told him I'm going to testify too, right?  
01:40:51 25 A. No, I told him I was coming back Monday too.

01:40:53 1 Q. That's what you told Carlos, right?

01:40:56 2 A. Right.

01:40:57 3 Q. They both knew you were coming here today to testify?

01:41:00 4 A. Yes.

01:41:00 5 Q. Who brought you down today?

01:41:03 6 A. I came in a car.

01:41:04 7 Q. Whose car?

01:41:06 8 A. I forgot his name.

01:41:07 9 Q. Well, do you see him out here somewhere?

01:41:11 10 A. Yes.

01:41:11 11 Q. Point him out, which guy brought you here today?

01:41:15 12 A. In the blue tam.

01:41:19 13 Q. Which guy?

01:41:20 14 A. Blue tam.

01:41:23 15 Q. Blue turban?

01:41:25 16 A. Yes.

01:41:25 17 Q. This guy here, he picked you up and brought you down here?

01:41:28 18 A. Yes.

01:41:28 19 Q. You weren't the only person in that car either, were you?

01:41:32 20 A. No.

01:41:32 21 Q. Some of the other witnesses who were going to testify here

01:41:35 22 today were in that car, weren't they?

01:41:36 23 A. No, Carlos's grandmother was.

01:41:39 24 Q. Well, she was back there with you, wasn't she?

01:41:42 25 A. Yes.



01:41:42 1 Q. You only heard one shot, right, Torrence?

01:41:48 2 A. Right.

01:41:50 3 - - -

01:41:50 4 TORRENCE WHITE, REDIRECT EXAMINATION, BY DEPOSITION

01:41:55 5 BY MR. HEPPELL:

01:41:55 6 Q. The police picked you up and brought you down to see a  
01:41:59 7 lineup?

01:42:00 8 A. Yes.

01:42:00 9 Q. The same day they brought Carlos Willis down there?

01:42:03 10 A. I didn't see Carlos Willis down there.

01:42:05 11 Q. You didn't see him down there that day?

01:42:06 12 A. No.

01:42:06 13 Q. Did either Mr. Swano or myself ever talk to you before the  
01:42:10 14 police talked to you?

01:42:11 15 A. No.

01:42:11 16 Q. Did you know Nathson Fields, the man sitting at the end of  
01:42:15 17 the table?

01:42:15 18 A. No.

01:42:20 19 THE COURT: Is that it?

01:42:22 20 MR. HEPPELL: The sentencing proceedings.

01:42:23 21 THE COURT: The next part is the testimony during the  
01:42:25 22 sentencing hearing, part of the 1986 trial.^

01:42:30 23 - - -

01:42:30 24 TORRENCE WHITE, DIRECT EXAMINATION

01:42:31 25 BY MR. HEPPELL:

01:42:31 1 Q. Would you state your name and spell your last name?

01:42:33 2 A. Torrence White, W-h-i-t-e.

01:42:34 3 Q. How old are you, Mr. White?

01:42:36 4 A. 16.

01:42:37 5 Q. Do you go to school?

01:42:39 6 A. Yes.

01:42:39 7 Q. Where?

01:42:39 8 A. Wendell Phillips.

01:42:41 9 Q. What year are you?

01:42:42 10 A. Sophomore.

01:42:43 11 Q. Did you go out for any sports?

01:42:45 12 A. I went out for basketball.

01:42:46 13 Q. When do you start school, this fall?

01:42:49 14 A. Yes.

01:42:49 15 Q. Calling your attention to April 28th, 1984, where did you

01:42:54 16 live on that day?

01:42:55 17 A. 706 East 39th Street.

01:42:57 18 Q. Calling your attention to about 10:00 o'clock in the

01:42:59 19 morning, do you remember where you were?

01:43:01 20 A. Across the street on Langley getting ready to play some

01:43:04 21 baseball.

01:43:05 22 Q. When you say across the street, where were you across the

01:43:08 23 street from?

01:43:08 24 A. From my building, like on the Dimond right across the

01:43:12 25 street from my building.

01:43:13 1 Q. By diamond, you mean baseball diamond?

01:43:18 2 A. Yes.

01:43:18 3 Q. At 10:00 o'clock on that day, were you on the baseball

01:43:21 4 field?

01:43:21 5 A. By the bench.

01:43:22 6 Q. While you were there at 10:00 o'clock in the morning on

01:43:25 7 that day, did you hear any gunshots?

01:43:27 8 A. Yes.

01:43:27 9 Q. How many gunshots did you hear?

01:43:29 10 A. I heard two and I started running.

01:43:31 11 Q. In which direction did you start running?

01:43:33 12 A. Langley.

01:43:35 13 Q. When you ran, who else was with you?

01:43:37 14 A. Randy Langston and Carlos Willis.

01:43:40 15 Q. When you ran in which direction did you run?

01:43:43 16 A. Towards Langley and Oakwood.

01:43:45 17 Q. Was that away from the building?

01:43:47 18 A. Yes.

01:43:47 19 Q. Did Randy Langston run with you?

01:43:49 20 A. Yes.

01:43:50 21 Q. While you were running, as you were running, did you have

01:43:54 22 occasion to turn around and look in the direction of the

01:43:57 23 shots?

01:43:57 24 A. No.

01:43:57 25 Q. Did you turn around and look at the breezeway at any time?

01:44:00 1 A. No.

01:44:00 2 Q. Did you have occasion to see any men at that time?

01:44:04 3 A. No.

01:44:05 4 Q. You kept on running?

01:44:08 5 A. I didn't turn around.

01:44:09 6 Q. After hearing the shots, did you look back in the

01:44:12 7 direction of the shots or come back in that direction at any

01:44:15 8 time?

01:44:15 9 A. I came back after it was over with.

01:44:18 10 Q. Did you see any men with ski masks?

01:44:21 11 A. No.

01:44:21 12 Q. Did you see anybody?

01:44:23 13 A. No.

01:44:23 14 Q. How long was it before you came back?

01:44:26 15 A. Be I came back about 10 minutes.

01:44:29 16 Q. As you ran, did Randy Langston run with you?

01:44:32 17 A. Yes.

01:44:32 18 Q. When you came back, did Randy Langston come back with you?

01:44:36 19 A. Yes.

01:44:36 20 Q. Now, calling your attention to May of 1985, almost a year

01:44:43 21 -- over a year after the shooting in 1984, did you have

01:44:46 22 occasion to go to 51st and Wentworth to view a lineup?

01:44:50 23 A. Yes.

01:44:51 24 Q. And who conducted that lineup?

01:44:54 25 A. I don't know his name.

01:44:54 1 Q. Does the name Detective O'Callaghan refresh your  
01:44:58 2 recollection?  
01:44:58 3 A. Yes.  
01:44:59 4 Q. Showing you Defense Exhibit No. 5 for purposes of  
01:45:03 5 sentencing, do you recognize one of the persons depicted in  
01:45:06 6 this photograph?  
01:45:07 7 A. O'Callaghan.  
01:45:08 8 Q. Is that the detective that conducted the lineup?  
01:45:12 9 A. Yes.  
01:45:12 10 Q. Now, when you viewed the lineup, did you view it alone or  
01:45:18 11 with other people?  
01:45:19 12 A. Alone.  
01:45:19 13 Q. When you looked at the lineup, were you able to identify  
01:45:22 14 anybody that was involved in the shooting?  
01:45:24 15 A. No.  
01:45:25 16 Q. Did you tell Detective O'Callaghan that?  
01:45:28 17 A. Yes.  
01:45:28 18 Q. What did Detective O'Callaghan try to do at that time?  
01:45:32 19 A. He told me if I tell him, if you point to somebody, he  
01:45:39 20 said if I could tell them that, identify him, he would move me  
01:45:44 21 out of the projects.  
01:45:45 22 Q. Showing you Defense Exhibit number 6 for identification,  
01:45:48 23 do you recognize this to be the lineup that you viewed?  
01:45:49 24 A. Yes.  
01:45:50 25 Q. Do you see the person that Detective O'Callaghan tried to

01:45:53 1 get you to identify?

01:45:55 2 A. Yes.

01:45:55 3 Q. Right here?

01:45:57 4 Q. Do you know the name of that person now?

01:45:59 5 A. Yes.

01:45:59 6 Q. What's his name?

01:46:00 7 A. Earl Hawkins.

01:46:01 8 Q. Had you seen Earl Hawkins on April 28th, was he involved

01:46:06 9 in the shooting at all?

01:46:07 10 A. No.

01:46:07 11 Q. Did you tell Detective O'Callaghan that?

01:46:09 12 A. Yes.

01:46:09 13 Q. How many times did Detective O'Callaghan make you identify

01:46:14 14 Earl Hawkins?

01:46:14 15 A. About three times.

01:46:16 16 Q. And what did you tell him each time?

01:46:18 17 A. I told him I didn't know him.

01:46:24 18 - - -

01:46:24 19 TORRENCE WHITE, CROSS-EXAMINATION

01:46:24 20 BY MR. NOLAND:

01:46:28 21 Q. You testified for the defense in trial, right?

01:46:30 22 A. Yes.

01:46:31 23 Q. I'm sorry?

01:46:33 24 A. Yes.

01:46:33 25 Q. In the trial that these two guys were convicted on is that

01:46:46 1 right? Well, at the time they were on trial for murder on?

01:46:48 2 A. Yes.

01:46:48 3 Q. And you testified, didn't you?

01:46:51 4 A. Yes.

01:46:51 5 Q. And they were found guilty?

01:46:53 6 A. I don't know about that.

01:46:54 7 Q. The lawyers didn't tell you they were found guilty?

01:46:57 8 A. Yes, they told me.

01:46:59 9 Q. So you did know they were found guilty, the same lawyers

01:47:02 10 who told you they were found guilty, told you to come down

01:47:06 11 here and testify today, right?

01:47:07 12 A. Yes.

01:47:08 13 Q. They were the same lawyers who brought you here the first

01:47:11 14 time?

01:47:12 15 A. Yes.

01:47:12 16 Q. And you knew Earl Hawkins and Nathson Fields' lawyers?

01:47:17 17 A. Yes.

01:47:17 18 MR. KULWIN: Judge, I am having a little trouble

01:47:20 19 hearing. Is the microphone off?

01:47:22 20 THE COURT: It's on. I can't hear him.

01:47:25 21 MR. NOLAND: Me?

01:47:26 22 MR. KULWIN: No, the witness.

01:47:27 23 THE COURT: Point it more at your face.

01:47:30 24 BY MR. NOLAND:

01:47:32 25 Q. You know some El Rukns, don't you?

01:47:33 1 A. No.

01:47:34 2 Q. Well, Torrence, didn't we go through this at the first

01:47:38 3 trial also? I asked you if --

01:47:43 4 A. We did.

01:47:44 5 Q. I asked you if you knew Hawkins, and Hawkins is an El

01:47:49 6 Rukn, isn't he?

01:47:49 7 A. Not no more.

01:47:50 8 Q. Well, did he used to be?

01:47:52 9 A. Yes.

01:47:52 10 Q. And he lives with your mother once in a while, doesn't he?

01:47:57 11 A. No.

01:47:57 12 Q. He stays with your mother once in a while, doesn't he?

01:48:01 13 A. No.

01:48:01 14 Q. Didn't we go over this in the first trial?

01:48:03 15 A. He used to stay on the first floor.

01:48:06 16 Q. But he used to see your brother, didn't he?

01:48:09 17 A. Yes, he used to see my mother. He stayed with her.

01:48:13 18 Q. And from 39th Street, you can see the El Rukn temple,

01:48:16 19 can't you?

01:48:16 20 A. Yes.

01:48:17 21 Q. And you still live at that address on 39th Street?

01:48:22 22 A. Yes.

01:48:22 23 Q. Don't you?

01:48:23 24 But you didn't know O'Callaghan's name until --

01:48:35 25 MR. NOLAND: The transcript is cut off, your Honor.



01:48:40 1 BY MR. NOLAND:

01:48:41 2 Q. But you didn't know O'Callaghan's name until they  
01:48:44 3 mentioned it, did you?

01:48:44 4 A. I knew him, but couldn't think of his name.

01:48:47 5 Q. By the way, even though O'Callaghan made you these  
01:48:50 6 promises and told you all these things, you never made an  
01:48:53 7 identification, did you?

01:48:54 8 A. No.

01:49:02 9 THE COURT: Is that it?

01:49:04 10 MR. LOEVY: That's the end.

01:49:05 11 THE COURT: You can step down. Is he still up there?  
01:49:08 12 Is there another excerpt you are going to read?

01:49:14 13 MR. HEPPELL: No. That's it.

01:49:15 14 THE COURT: Who is next? Ball Ball Cleveland Ball.

01:49:29 15 THE COURT: This is from the 1986 trial.

01:49:32 16 - - -

01:49:32 17 CLEVELAND BALL, DIRECT EXAMINATION, BY PREVIOUS TESTIMONY

01:49:34 18 BY MR. NOLAND:

01:49:34 19 Q. State your name and spell it for the record, please.

01:49:37 20 A. Cleveland Ball, B-a-l-l.

01:49:39 21 Q. Where do you live?

01:49:40 22 A. 706 East 39th Street.

01:49:41 23 Q. How long have you lived at that address?

01:49:43 24 A. 13 years.

01:49:44 25 Q. How old are you, sir?

01:49:46 1 A. 21.

01:49:47 2 Q. Do you know a person by the name much Fuddy or did you

01:49:53 3 know a person named Fuddy?

01:49:54 4 A. Yes.

01:49:54 5 Q. How long had you known Fuddy?

01:49:56 6 A. About 13 years.

01:49:57 7 Q. What was your relationship with him?

01:49:58 8 A. He was a friend.

01:49:59 9 Q. Did you know a person by the name of Talman Hickman or

01:50:02 10 Tom?

01:50:02 11 A. Yes.

01:50:03 12 Q. What was your relationship with him?

01:50:04 13 A. A friend.

01:50:05 14 Q. Now, what's the apartment that you lived in in April of

01:50:11 15 1984?

01:50:11 16 A. 706 East 39th Street, apartment 309.

01:50:14 17 Q. Calling your attention to about 10:00 o'clock in the

01:50:17 18 morning on April 28th, 1984, did you have occasion to see

01:50:21 19 Fuddy?

01:50:21 20 A. Yes.

01:50:22 21 Q. Where did you see him first that morning?

01:50:24 22 A. He knocked on my door looking for my little brother.

01:50:27 23 Q. What's your little brother's name?

01:50:29 24 A. Preston ball.

01:50:30 25 Q. In April of 1984, did you know whether or not Fuddy was a

01:50:34 1 member of a gang?

01:50:34 2 A. Yes.

01:50:35 3 Q. What gang was that?

01:50:37 4 A. Black Gangster Goon Squad.

01:50:41 5 Q. What about your brother Preston, was he a member of a

01:50:44 6 gang?

01:50:44 7 A. Yes.

01:50:44 8 Q. What gang was that?

01:50:46 9 A. Black Gangster Goon Squad.

01:50:49 10 Q. When Fuddy came to the door, was he with anybody else?

01:50:54 11 A. Yes.

01:50:54 12 Q. Did you admit Fuddy into your apartment that morning?

01:50:57 13 A. No.

01:50:58 14 Q. What did you tell him when you knocked on the door?

01:51:00 15 A. I told him that my little brother was not there, that he

01:51:04 16 had gone out west.

01:51:05 17 Q. Did Fuddy leave then?

01:51:06 18 A. Yes.

01:51:06 19 Q. What did you do after Fuddy left?

01:51:08 20 A. I was sweeping. I had the door open. I was sweeping the

01:51:11 21 kitchen floor.

01:51:12 22 Q. Did you hear any sounds?

01:51:13 23 A. Yes, about a minute and a half to two minutes, I heard

01:51:17 24 four gunshots.

01:51:18 25 Q. Where did you hear the gunshots sound from?

01:51:20 1 A. From the -- it was like a big bang under the breezeway, I  
01:51:24 2 heard bangs, the echos from out the breezeway.  
01:51:26 3 Q. By the way, who else was in your apartment at this time  
01:51:29 4 when you heard the shots?  
01:51:30 5 A. My brother, Roy Ball, my mother.  
01:51:33 6 Q. What's your mother's name?  
01:51:34 7 A. Rita May Ball.  
01:51:37 8 Q. Who else?  
01:51:38 9 A. My sister-in-law, ^ pat ^ Pat /REURB is that bell done.  
01:51:42 10 Q. What else?  
01:51:42 11 A. My brother Michael and my little nephews.  
01:51:44 12 Q. What did you do after you heard the shots from the  
01:51:48 13 breezeway window?  
01:51:49 14 A. I went to the back window which faced on 39th Street and I  
01:51:52 15 looked out the window.  
01:51:53 16 Q. What did you see?  
01:51:54 17 A. I seen Fuddy lying down facedown in the mud and I seen  
01:51:59 18 Tommy's legs, the part hanging out from around the corner.  
01:52:02 19 Q. What did you do after you saw that?  
01:52:04 20 A. I ran to the back of the window.  
01:52:06 21 Q. What direction does that look out?  
01:52:07 22 A. That looks north going down Langley.  
01:52:09 23 Q. What's located in that area of the building?  
01:52:11 24 A. Okay. I can see part of the breezeway, like the gangway  
01:52:15 25 of the building where the shots came from, and I could see the

01:52:18 1 parking lot and the playground.

01:52:19 2 Q. Which window did you look out of?

01:52:21 3 A. The kitchen window.

01:52:23 4 Q. How much time elapsed from the time you looked out the one

01:52:27 5 window and saw the bodies until you ran to the other kitchen

01:52:29 6 window?

01:52:30 7 A. Approximately three seconds, three, four seconds.

01:52:32 8 Q. When you looked out that window, did you see anything?

01:52:35 9 A. Yes.

01:52:36 10 Q. What did you see?

01:52:36 11 A. I seen two men running diagonal through the playground

01:52:40 12 with ski masks on, red ski masks.

01:52:42 13 Q. What color were the ski masks?

01:52:44 14 A. Red.

01:52:44 15 Q. I'd like to show you what's been previously marked as

01:52:48 16 defense Exhibit number 8 for identification. Do you recognize

01:52:51 17 that view depicted in that photograph?

01:52:52 18 A. Yes. This is the view from my kitchen window.

01:52:55 19 Q. Do you see in that photograph where it was that you saw

01:52:58 20 the two men?

01:52:59 21 A. Okay. I seen the two men running where it says P P Mac

01:53:03 22 right here, from here, they came through here, they cut across

01:53:07 23 this little dirt way, hit the parking lot and they ran through

01:53:10 24 the parking lot right here and they met a car coming down

01:53:13 25 Langley and they got in the car.

01:53:14 1 Q. What kind of car was it, if you know?

01:53:16 2 A. It was a blue two-door, 79 coupe DeVille.

01:53:20 3 Q. Is that a Cadillac?

01:53:22 4 A. Right.

01:53:22 5 Q. Did the men get in that Cadillac?

01:53:24 6 A. Yes.

01:53:24 7 Q. Were you able to see the face of either of these two men?

01:53:29 8 A. No, they had on ski masks.

01:53:30 9 Q. Did they ever take the ski masks off from the time you

01:53:33 10 first saw them until the time they entered the Cadillac?

01:53:36 11 A. No, sir.

01:53:36 12 Q. What street is located out there?

01:53:40 13 A. Langley.

01:53:41 14 Q. Now, did you see the blue Cadillac move in any way?

01:53:45 15 A. Yes.

01:53:45 16 Q. What direction was it moving?

01:53:46 17 A. It was moving north.

01:53:47 18 Q. Now, that day after you saw the men run to the blue

01:53:53 19 Cadillac where did you go, what did you do?

01:53:55 20 A. After I seen them get in the car and the car moved out, I

01:53:59 21 ran downstairs.

01:53:59 22 Q. What did you see downstairs?

01:54:01 23 A. I seen two dead bodies.

01:54:02 24 Q. Do you know a person by the name of Richard Buckles or

01:54:07 25 Bucky?

01:54:07 1 A. Yes.

01:54:07 2 Q. Is he a member of a gang?

01:54:10 3 A. Yes, he is a member of the Black Gangster Goon Squad.

01:54:14 4 Q. Do you know Gerald Morris?

01:54:15 5 A. Yes, he is a member of the Black Gangster Goon Squad.

01:54:18 6 Q. Does he have a nickname?

01:54:19 7 A. Dirty face.

01:54:20 8 Q. Do you know Randy Langston?

01:54:21 9 A. Yes.

01:54:21 10 Q. Is he a member of a gang?

01:54:23 11 A. Black Gangster Goon Squad.

01:54:25 12 Q. That day, did the police come to your house and interview

01:54:28 13 you?

01:54:29 14 A. Yes.

01:54:29 15 Q. And do you remember about what time it was that they came

01:54:32 16 to your house?

01:54:33 17 A. The incident took place about 10:15, they came to

01:54:37 18 interview me about 11:30.

01:54:41 19 Q. Who else was there when the police interviewed you?

01:54:43 20 A. Me, Ray Ball, my brother, my sister, my sister-in-law, and

01:54:46 21 my brother Mike.

01:54:49 22 Q. Did you tell the police what you told the Court here

01:54:51 23 today?

01:54:51 24 A. Yes.

01:54:51 25 Q. Did your brother Roy participate in that conversation?

01:54:53 1 A. Yes.

01:54:54 2 Q. How, since that day, have you been contacted by the police

01:54:57 3 or asked to go to any lineups?

01:54:59 4 A. No, they brought a picture to my house.

01:55:02 5 Q. You were not asked to go to a lineup?

01:55:05 6 A. No.

01:55:05 7 Q. When they brought a picture to your house, how many

01:55:08 8 pictures did they have?

01:55:09 9 A. They had about four.

01:55:10 10 Q. About four?

01:55:12 11 A. About four pictures.

01:55:13 12 Q. You don't know my client, Earl Hawkins, do you?

01:55:17 13 A. No.

01:55:17 14 Q. Do you know Mr. Smeeton's client, Mr. Fields?

01:55:22 15 A. No.

01:55:22 16 Q. Are you a member of any gang?

01:55:23 17 A. No.

01:55:27 18 - - -

01:55:27 19 CLEVELAND BALL, CROSS-EXAMINATION, BY PREVIOUS TESTIMONY

01:55:27 20 BY MR. NOLAND: (Reading:)

01:55:34 21 Q. Do you remember these detectives, the names of those

01:55:38 22 detectives you talked to?

01:55:38 23 A. Cunningham, something like that.

01:55:42 24 Q. The day of the shooting, was it Evans and hood?

01:55:44 25 A. I don't know, it was a tall white guy.



01:55:47 1 Q. Two white detective, right?

01:55:49 2 A. Right.

01:55:49 3 Q. They came up to your house to interview you?

01:55:51 4 A. Right.

01:55:51 5 Q. This was an hour and a little bit something after the

01:55:55 6 shooting, right?

01:55:55 7 A. Right.

01:55:56 8 Q. You didn't tell them anything in that interview about any

01:56:00 9 ski masks, did you?

01:56:00 10 A. Yes, I did.

01:56:01 11 Q. You told those detectives that the two guys you saw

01:56:05 12 running had ski masks?

01:56:06 13 A. I told them exactly what I seen, they had ski masks on

01:56:09 14 their face, I seen their face at all.

01:56:14 15 Q. Now, even though you can't pick out your apartment on this

01:56:18 16 plat, you are familiar with?

01:56:21 17 A. That's an odd diagram to even look at.

01:56:23 18 Q. Do you understand the word parallel?

01:56:25 19 A. Yes.

01:56:25 20 Q. You know there is a sidewalk that goes parallel from the

01:56:28 21 building to the breezeway to Langley, right?

01:56:30 22 A. Not parallel.

01:56:31 23 Q. It goes right alongside the building to Langley?

01:56:35 24 A. Just a straight line.

01:56:36 25 Q. Okay. Well, there is a straight line to the building too,

01:56:40 1 right?

01:56:41 2 A. Right.

01:56:41 3 Q. There is a sidewalk that goes right along that straight

01:56:44 4 line out to Langley, right?

01:56:46 5 A. It all depends on what angle you are talking about. You

01:56:49 6 can get from Langley from --

01:56:51 7 Q. I am going to show you what's been marked as people's

01:56:54 8 number 14. Do you recognize what's in that picture?

01:56:58 9 A. Yes.

01:56:58 10 Q. That's the back of 706, right?

01:57:00 11 A. Yes.

01:57:00 12 Q. Do you recognize the sidewalk down here?

01:57:03 13 A. Yes.

01:57:04 14 Q. That sidewalk goes all the way to Langley, doesn't it?

01:57:09 15 A. Yes, but that wasn't the sidewalk.

01:57:12 16 Q. That sidewalk goes all the way to Langley?

01:57:15 17 A. That wasn't the sidewalk that they came through. That's a

01:57:18 18 whole different view of everything. That ain't got nothing to

01:57:21 19 do with it.

01:57:22 20 Q. Now, if I can ask my question. That sidewalk goes all the

01:57:25 21 way to Langley, doesn't it?

01:57:26 22 A. Yes, it do.

01:57:27 23 Q. You can't see Langley where that sidewalk hits Langley,

01:57:31 24 you can't see that from your apartment, can you?

01:57:34 25 A. No, sir.

01:57:35 1 Q. Just like this picture, Defendant's Exhibit number 8,  
01:57:42 2 shows you can't see where that sidewalk hits Langley, can you?  
01:57:45 3 A. I see it.  
01:57:46 4 Q. Sir, my question is, you can't see where that sidewalk  
01:57:49 5 hits Langley?  
01:57:50 6 A. I can see Langley.  
01:57:51 7 Q. Can you see the portion of Langley where that sidewalk  
01:57:55 8 connects?  
01:57:56 9 A. Okay. They got a parking lot.  
01:57:59 10 Q. Can you see where that sidewalk hits Langley?  
01:58:03 11 A. Yes.  
01:58:03 12 Q. You can?  
01:58:03 13 A. I can see a sidewalk going down Langley.  
01:58:06 14 Q. Can you see where this sidewalk gets to Langley from your  
01:58:10 15 apartment?  
01:58:11 16 A. Not from that.  
01:58:12 17 Q. You can't, can you?  
01:58:13 18 A. Not right there.  
01:58:14 19 Q. You can't see where this sidewalk hits Langley from your  
01:58:19 20 apartment, can you?  
01:58:21 21 A. It all depends on which sidewalk you're talking about,  
01:58:24 22 sir. It's five or six sidewalks out there.  
01:58:26 23 Q. Okay. The sidewalk I just asked you about.  
01:58:29 24 A. Okay. Now, that's a different angle from my window. I  
01:58:33 25 can't -- I cannot see that.

01:58:34 1 Q. Can you see that sidewalk where it hits Langley, that's my  
01:58:36 2 question?  
01:58:38 3 A. No, not from that point.  
01:58:39 4 Q. So if a car was parked right on Langley where that  
01:58:42 5 sidewalk was, you couldn't see that car, could you?  
01:58:45 6 A. I seen a moving car, moving blue two-door coupe DeVille  
01:58:51 7 79, moving at the same diagonal as the persons that were  
01:58:54 8 running.  
01:58:54 9 Q. I will ask you the question again.  
01:58:56 10 A. I seen the car.  
01:58:58 11 Q. If a car was parked on Langley where that sidewalk hits  
01:59:02 12 Langley, you couldn't see it from your apartment, could you?  
01:59:08 13 A. I couldn't, no.  
01:59:09 14 Q. You couldn't say anything to the police officers before  
01:59:11 15 the car got moving when these guys got into it?  
01:59:15 16 A. It was moving together like --  
01:59:17 17 Q. My question was you didn't tell the police officers that,  
01:59:19 18 did you?  
01:59:19 19 A. Did I tell the police officers what, sir?  
01:59:23 20 Q. That the car was moving before these guys got into it?  
01:59:27 21 A. No, it was moving with them. As they were running, it was  
01:59:29 22 moving. The car was coming straight and they were running  
01:59:32 23 parallel to the car through the parking lot.  
01:59:34 24 Q. You still live at 706 East 39th Street, don't you?  
01:59:39 25 A. Yes.

01:59:39 1 Q. Since you're familiar with all these gang members, you  
01:59:41 2 must be familiar with the El Rukns also, aren't you?  
01:59:44 3 A. Yes.  
01:59:44 4 Q. You know where the El Rukn temple is, don't you?  
01:59:48 5 A. Yes.  
01:59:48 6 Q. That's on 39th and Drexel, isn't it?  
01:59:52 7 A. Yes.  
01:59:52 8 Q. By the way, your apartment is the farthest apartment in  
01:59:55 9 that building away from Langley, isn't it?  
01:59:58 10 A. The 9s, yes.  
01:59:59 11 Q. You are not on the side closest to Langley, are you?  
02:00:02 12 A. No.  
02:00:02 13 Q. You are on the other side of the building?  
02:00:04 14 A. Right.  
02:00:05 15 Q. That's the side closest to the El Rukn temple, isn't it?  
02:00:08 16 A. What do you mean by closest?  
02:00:11 17 Q. That side of the building is the closest to the El Rukn  
02:00:15 18 temple, isn't it?  
02:00:16 19 A. Yes.  
02:00:16 20 Q. Now, when you say you saw these guys running away, their  
02:00:20 21 backs are -- were always towards you, weren't they?  
02:00:23 22 A. No.  
02:00:23 23 Q. Well, sir, you never left your apartment, did you?  
02:00:27 24 A. I was looking directly out my window.  
02:00:30 25 Q. You never left your apartment, did you?

02:00:31 1 A. No.

02:00:32 2 Q. And to run through the breezeway to Langley, they're

02:00:35 3 running away from you, aren't they?

02:00:37 4 A. In the same diagonal, they stayed in my sight until they

02:00:40 5 got in the car.

02:00:40 6 Q. Okay. I'll ask the same question. They're not running

02:00:44 7 towards you, are they?

02:00:45 8 A. No.

02:00:45 9 Q. Langley is in the other direction from you, right?

02:00:49 10 A. Sir.

02:00:50 11 Q. Is Langley in the other direction from where you were?

02:00:53 12 A. They did not run that way. Okay. This is 39th and

02:00:57 13 Langley. They ran toward 38th and Langley. That means I got

02:01:01 14 a straight through from 38th and Langley from 39th straight

02:01:05 15 across.

02:01:05 16 Q. When they were running towards 38th and Langley or

02:01:08 17 wherever you said they were running, they were running away

02:01:11 18 from you, weren't they?

02:01:12 19 A. Yes.

02:01:12 20 Q. So that means you saw their backs, didn't you?

02:01:16 21 A. But I still seen them. They came past me first. I am

02:01:20 22 looking directly out the window. Like, this is the breezeway,

02:01:23 23 coming out the breezeway like I seen men, you know, coming out

02:01:26 24 the breezeway with ski masks on.

02:01:28 25 Q. Didn't you just testify after you heard the four gunshots,

02:01:32 1 the first thing you did was to go to the front of the  
02:01:34 2 building?  
02:01:34 3 A. Right, 39th.  
02:01:35 4 Q. And you looked out there and you saw Fuddy, right?  
02:01:38 5 A. Yes.  
02:01:38 6 Q. That took some time, didn't it?  
02:01:41 7 A. It took a split second.  
02:01:42 8 Q. You looked out and saw Tom, didn't you?  
02:01:45 9 A. I seen the legs of Tom.  
02:01:47 10 Q. When you had to run back to the other end of your  
02:01:49 11 apartment -- then you had to run back to the other end of your  
02:01:52 12 apartment, right?  
02:01:52 13 A. Three seconds, right.  
02:01:54 14 Q. And that's the first time you saw these guys running,  
02:01:56 15 right?  
02:01:57 16 A. Okay. That was the first time I seen them coming out the  
02:02:00 17 breezeway.  
02:02:00 18 Q. That breezeway is not right under your apartment, is it?  
02:02:03 19 A. Coming out of it is.  
02:02:07 20 Q. There are apartments between you and the breezeway, aren't  
02:02:09 21 there?  
02:02:09 22 A. Just a little space.  
02:02:10 23 Q. Are there apartments between your apartment and the  
02:02:16 24 breezeway?  
02:02:16 25 A. Yes, it is.

02:02:17 1 Q. You're on the third floor, aren't you?

02:02:19 2 A. Yes.

02:02:20 3 Q. Looking down, right?

02:02:22 4 A. Yes.

02:02:22 5 Q. And you say you heard only four shots, right?

02:02:25 6 A. I heard four shots.

02:02:27 7 Q. By the way, sir, were your windows open or closed at the

02:02:30 8 time?

02:02:30 9 A. My window was cracked.

02:02:32 10 Q. Cracked?

02:02:33 11 A. Yes, half and half.

02:02:34 12 Q. How much was it cracked?

02:02:35 13 A. Enough for me to stick my head.

02:02:37 14 Q. And you had to stick your head out, didn't you?

02:02:40 15 A. Yes.

02:02:40 16 Q. When you got to the window, you just couldn't look out and

02:02:45 17 see Fuddy laying there, could you?

02:02:46 18 A. No.

02:02:47 19 Q. You had to look out, turn around and look down to see

02:02:50 20 Fuddy, right?

02:02:50 21 A. Just like this here, to look out the window.

02:02:53 22 Q. That's the same thing you had to do to see Tom, right?

02:02:57 23 A. Tom was unseeable, the only thing I seen about Tom was

02:03:01 24 just his legs, about the part of his legs hanging out from

02:03:04 25 where I was.



02:03:04 1 Q. Where Fuddy was laying, it was bright sunshine out there,  
02:03:07 2 right?

02:03:07 3 A. Yes, dead in the morning.

02:03:09 4 Q. How did you get to court today, Cleveland?

02:03:12 5 A. I was brought by Mr. Swano.

02:03:14 6 Q. When is the first time you were contacted by Mr. Swano?

02:03:17 7 A. Last year in July.

02:03:19 8 Q. In between then and now, have you been contacted by  
02:03:23 9 anything -- by anybody else?

02:03:24 10 A. No, sir.

02:03:25 11 Q. Do you know anybody sitting out in the courtroom here?

02:03:29 12 A. No, I don't.

02:03:31 13 Q. I'm sorry?

02:03:32 14 A. No, I don't.

02:03:36 15 THE COURT: Is that it? Okay. You can step down.

02:03:43 16 The next thing is the discovery thing. I want to  
02:03:46 17 know what to tell the jury. I want to see what it is.

02:03:53 18 (Sidebar.)

02:04:00 19 MR. SWAMINATHAN: That's the request to admit.

02:04:01 20 THE COURT: Which requests to admit?

02:04:02 21 MR. SWAMINATHAN: We have removed the ones that are  
02:04:05 22 irrelevant.

02:04:05 23 MR. LOEVY: The numbers aren't --

02:04:07 24 THE COURT: Got it. All right. And these are the  
02:04:11 25 city's requests to admit, so I am going to tell the jury.

02:04:16 1 MR. SWAMINATHAN: City's responses.

02:04:17 2 THE COURT: City's responses. I'm going to tell the  
02:04:20 3 jury that you're to take these points as admitted by the city.

02:04:29 4 MR. MICHALIK: Right. The one request that I had was  
02:04:31 5 that the date of the requests.

02:04:35 6 THE COURT: Show the page, right. And then on the  
02:04:39 7 interrogatory answers again, this is the city. I should just  
02:04:45 8 tell them that this is -- it's part of the evidence in the  
02:04:47 9 case.

02:04:49 10 Okay. The reason I had you over here is that you  
02:04:56 11 don't have to worry about making a rule -- Rule 50 motion on  
02:04:59 12 the record, but I'm going to want them, you know, sometime  
02:05:04 13 within the calendar day today. Okay?

02:05:06 14 MR. MICHALIK: Understood.

02:05:07 15 THE COURT: Good. The record should reflect Mr.  
02:05:10 16 Kulwin is pointing at Mr. Michalik.

02:05:13 17 MR. LOEVY: We are going to rest after this and it's  
02:05:15 18 subject to the Kuhn issue too. I won't say that in front of  
02:05:19 19 the jury.

02:05:19 20 THE COURT: Fine.

02:05:24 21 (The following proceedings were had in open court in the  
02:05:24 22 presence and hearing of the jury:)

02:05:24 23 THE COURT: The next thing that's going to happen is  
02:05:29 24 that some different type of material is going to be read to  
02:05:31 25 you. I want to explain to you what it is. The first is I

02:05:34 1 believe the City of Chicago's responses to something called  
02:05:38 2 requests to admit. And it's a thing that's used in lawsuits.  
02:05:43 3 And so these are the city's responses to requests to admit.  
02:05:48 4 Are you going to show them on the screen?

02:05:49 5 MR. SWAMINATHAN: Yes.

02:05:53 6 THE COURT: Again, you should take notes on these  
02:05:55 7 because you will not have them in the jury room. You should  
02:05:57 8 take the facts as stated in these responses as having been  
02:06:00 9 admitted by the City of Chicago. And then when you get to the  
02:06:03 10 second thing, I'll explain what the second thing is. You will  
02:06:07 11 be able to see these on your screen.

02:06:09 12 The date of these was?

02:06:11 13 MR. SWAMINATHAN: These are dated, this is  
02:06:16 14 Plaintiff's Exhibit 29.

02:06:16 15 THE COURT: October 25th, 2012.

02:06:18 16 MR. SWAMINATHAN: October 25th, 2012.

02:06:20 17 THE COURT: All right.

02:06:21 18 MR. SWAMINATHAN: These are defendants' City of  
02:06:25 19 Chicago's response to plaintiff's requests to admit.

02:06:27 20 Number 9, please admit that immediately prior to  
02:06:34 21 being held in the office of lieutenant Duffin, the city  
02:06:38 22 believes that Plaintiff's Exhibit 1 was kept in the file  
02:06:42 23 cabinet labeled 1983/1984 in a room on the second floor at  
02:06:49 24 51st and Wentworth in the sect division.

02:06:52 25 Response, admit plaintiff's exhibit 1 was located at

02:06:56 1 Area 1, but the city is without sufficient information to  
02:06:58 2 admit or deny precisely where the file was located at that  
02:07:02 3 location.

02:07:03 4 Number 10, please admit that the city is unable to  
02:07:08 5 determine precisely where Plaintiff's Exhibit 1 had been  
02:07:14 6 stored since 1984 until it was found in approximately May  
02:07:17 7 2010.

02:07:18 8 Response, admit.

02:07:21 9 Number 11, please admit that the City of Chicago is  
02:07:30 10 unable to determine which employee at area one located and  
02:07:33 11 retrieved Plaintiff's Exhibit 1 in 2011.

02:07:37 12 Response, admit.

02:07:39 13 Number 12, please admit that the City of Chicago is  
02:07:42 14 unable to determine which employee and/or employees at area  
02:07:46 15 one made the copies of Plaintiff's Exhibit 1 and then sent  
02:07:51 16 said documents to the legal affairs division.

02:07:52 17 Response, admit.

02:07:55 18 No. 13, please admit that the Chicago Police  
02:07:59 19 Department employees interviewed by the city's legal team  
02:08:02 20 stated that they had no recollection of having made copies of  
02:08:05 21 Plaintiff's Exhibit 1.

02:08:07 22 Response, admit.

02:08:09 23 Number 17, please admit that at the time of the June  
02:08:13 24 12th, 2012, visit there was a file cabinet located midway down  
02:08:18 25 the left wall of the room which contained five drawers of

02:08:21 1 files related to honestly sides at area one.

02:08:25 2 Response: Admit.

02:08:26 3 Number 20: Please admit that the city believes that  
02:08:36 4 plaintiff's exhibit had been stored, at some time, in the file  
02:08:40 5 cabinet described above in paragraph 17, in the fourth or  
02:08:44 6 fifth drawer from the top, alongside the other homicide files  
02:08:46 7 from area one dating from between 1983 and 1985.

02:08:50 8 Response: The city is without sufficient information  
02:08:54 9 to admit or deny this request.

02:08:56 10 Number 28: Please admit that if, in fact, Plaintiff's  
02:09:02 11 Exhibit 1 was ever located in the file cabinet that  
02:09:05 12 plaintiff's counsel viewed on June 12, 2012, and which are  
02:09:08 13 described in paragraphs 17 and 18 that the city does not know  
02:09:12 14 how long they were located in that file cabinet.

02:09:14 15 Response: Admit.

02:09:16 16 Number 33: Please admit that the city had no evidence  
02:09:23 17 that could support an inference that Plaintiff's Exhibit 1 had  
02:09:26 18 ever been provided to the plaintiff prior to September eighth,  
02:09:30 19 2011.

02:09:31 20 Response: The city admits that it has no knowledge  
02:09:34 21 that the entire Plaintiff's Exhibit 1 was provided to  
02:09:39 22 plaintiff prior to September 8, 2011.

02:09:41 23 Number 35: Please admit that the city has no evidence  
02:09:48 24 that could support an inference that Plaintiff's Exhibit 1 of  
02:09:52 25 ever been provided to the Cook County state's attorney's

02:09:55 1 office prior to September 8th, 2011.

02:09:58 2 Response: The city admits it has no knowledge that  
02:10:02 3 the entire Plaintiff's Exhibit 1 was provided to the Cook  
02:10:05 4 County state's attorney's office prior to September 8th, 2011.

02:10:08 5 Number 38: Please admit that Plaintiff's Exhibit 1  
02:10:21 6 contains no reference to the plaintiff Nathson Fields.

02:10:24 7 Response: Admit.

02:10:27 8 Number 39: Please admit that Plaintiff's Exhibit 1  
02:10:32 9 contains no photograph of the plaintiff Nathson Fields.

02:10:34 10 Response: Admit.

02:10:38 11 THE COURT: Okay. So that's it for that.

02:10:40 12 Then the other thing that's going to be read from are  
02:10:42 13 what are called responses to interrogatories. These are  
02:10:45 14 written questions that are served as part of a case. Again,  
02:10:48 15 it's the City of Chicago's responses. You are again to take  
02:10:52 16 this as part of the evidence in the case. Okay.

02:10:54 17 MR. SWAMINATHAN: This is defendant, City of  
02:10:58 18 Chicago's third amended and supplemental answers to paragraphs  
02:11:01 19 4 and 5 of plaintiff's first set of interrogatories.

02:11:03 20 The interrogatory is No. 4. And this is Plaintiff's  
02:11:10 21 Exhibit 205.

02:11:12 22 Identify the names of any known persons, agencies,  
02:11:15 23 government offices, entities, or law enforcement officers or  
02:11:20 24 agencies both currently or previously involved in identifying,  
02:11:24 25 selecting, handling, transporting or coping documents or

02:11:28 1 materials related to the investigation of the April 28, 1984,  
02:11:33 2 murders of Jerome Fuddy Smith and Talman Hickman. This  
02:11:40 3 interrogatory seeks to establish the chronological chain of  
02:11:43 4 custody for any and all documents, notes, or materials  
02:11:46 5 compiled during the investigation of the murders of Jerome  
02:11:51 6 Fuddy Smith and Talman Hickman, including but not limited to  
02:11:54 7 Plaintiff's Exhibit 1.

02:11:58 8 In answer, the stay states as follows: The city has  
02:12:09 9 been unable to, quote, establish the chronological chain of  
02:12:12 10 custody, end quote, of plaintiff's exhibit 1, hereinafter  
02:12:17 11 referred to as the subject file, from 1984 to the present as  
02:12:20 12 requested in this interrogatory. However, the city states  
02:12:23 13 based on the deposition testimony of certain of the detectives  
02:12:26 14 initially assigned to investigate the April 28th, 1984  
02:12:31 15 Smith/Hickman homicides, that the subject file would have been  
02:12:35 16 initially maintained at the former Area 1 located at 51st and  
02:12:39 17 Wentworth in the City of Chicago after the murders in 1984 and  
02:12:42 18 available to area one detective division personnel working on  
02:12:46 19 the case at that time. The names of area one personnel who  
02:12:50 20 may have handled documents in the subject file include but not  
02:12:55 21 be limited to the persons whose names are identified in the  
02:12:58 22 file, including former detectives Fields, Carroll, van better  
02:13:03 23 shot, hood, Evans, Minogue, Bogdalek, and Davis and sergeants  
02:13:13 24 McCrae m-c-c-r-a-e, and Murphy. Based on the WE TIP document  
02:13:20 25 Bates stamped city-N F-001052 contained in the subject file



02:13:27 1 and referencing Detective Hood, it appears the file was at  
02:13:31 2 area one as of June 1984. The file does not appear to contain  
02:13:35 3 documents generated after June 1984.

02:13:37 4 The city does not know where the subject file was  
02:13:39 5 maintained after June 1984 until it was located at Area 1  
02:13:43 6 after the filing of this case in 2010.

02:13:46 7 There is a verification from Sergeant Robert Flores  
02:13:52 8 signed at the office of legal affairs, Chicago Police  
02:13:55 9 Department. It verifies that he signed the foregoing  
02:13:58 10 defendant City of Chicago's third amended and supplemental  
02:14:02 11 answers, paragraph 4 and 5 of plaintiff's first  
02:14:05 12 interrogatories deposed to the city, that he is duly authorized  
02:14:09 13 to do so and that the foregoing answers are true and correct  
02:14:12 14 to the best of his knowledge and/or belief.

02:14:14 15 THE COURT: Okay. And.

02:14:16 16 MR. LOEVY: Your Honor, at this time, plaintiff  
02:14:17 17 rests.

02:14:17 18 THE COURT: That's just so the jury knows, it's  
02:14:19 19 subject to a couple of exceptions and things we talked about  
02:14:21 20 add sidebar.

02:14:22 21 Okay. Next witness, please.

02:14:25 22 MR. NOLAND: Judge, could we have a couple things  
02:14:30 23 with this witness that we could have a sidebar about.

02:14:33 24 THE COURT: Okay.

02:14:39 25 (The following proceedings were had at sidebar outside the



02:14:43 1 hearing of the jury:)

02:14:43 2 THE COURT: Who are we talking about?

02:14:45 3 MR. NOLAND: Brannigan.

02:14:49 4 THE COURT: Okay.

02:14:51 5 MR. NOLAND: First of all, we need to make our  
02:14:53 6 motions now.

02:14:53 7 THE COURT: No, no, you don't need to make them now.  
02:14:57 8 I need them by the end of the day.

02:15:00 9 MR. NOLAND: Thank you.

02:15:03 10 Two issues for one of the El Rukn cooperators that we  
02:15:06 11 are reading Eugene Hunter, the plaintiffs have designated some  
02:15:09 12 entries where this witness Brannigan and myself went to see  
02:15:13 13 him out of state during this litigation.

02:15:18 14 THE COURT: Okay.

02:15:19 15 MR. NOLAND: And they are trying to raise an  
02:15:20 16 inference I think from those designations that there's some  
02:15:24 17 type of impropriety with Brannigan being involved with respect  
02:15:27 18 to talking to Hunter and testifying in this case. What I  
02:15:33 19 would like to do is ask Mr. Brannigan why he accompanied me to  
02:15:36 20 see Mr. Hunter and the answer I would suspect he would give is  
02:15:40 21 because Hunter was initial in the witness protection program,  
02:15:43 22 he's currently living in an undisclosed location with an  
02:15:47 23 assumed name and that it would not have been prudent for me to  
02:15:51 24 show up or contact him unannounced without any prior advance  
02:15:55 25 notice or wondering what was going on.

02:15:57 1 THE COURT: What's the second issue?

02:15:58 2 MR. NOLAND: The second issue is Ms. Conyers  
02:16:01 3 testified with respect to some of the benefits offered or  
02:16:04 4 provided to Mr. Hawkins during the 2009 trial and we  
02:16:07 5 understand the Court's ruling about that. She went further  
02:16:10 6 than that with respect to certain things including phone calls  
02:16:12 7 that Mr. Hawkins was provided and moneys that he was provided  
02:16:16 8 and she testified.

02:16:17 9 THE COURT: 60 bucks into his commissary account or  
02:16:21 10 something like that.

02:16:21 11 MR. NOLAND: And family benefit, she said money was  
02:16:25 12 given to his family members and she commented that that was  
02:16:29 13 highly unusual. That we think -- we think we need to  
02:16:34 14 ameliorate that in some way. The reason that was done was for  
02:16:38 15 safety considerations. Mr. Brannigan provided an in 1995, a  
02:16:42 16 30-page affidavit explaining a lot of these items. These are  
02:16:45 17 items that he addressed in his affidavits.

02:16:48 18 THE COURT: Which items?

02:16:49 19 MR. NOLAND: The issue of phone calls and money for  
02:16:51 20 family members as far as relocation. The primary reason is  
02:16:54 21 safety. Three El Rukn family members --

02:16:57 22 THE COURT: The same frame -- this is after he became  
02:16:59 23 a cooperator in the federal case?

02:17:00 24 MR. NOLAND: Yes, your Honor. And he goes through in  
02:17:03 25 his affidavit about how these phone calls were crucial because

02:17:07 1 the El Rukns cooperators were very worried about their family,  
02:17:12 2 the safety of their family members and that the government was  
02:17:14 3 providing this information for relocation.

02:17:16 4 THE COURT: So this is what you want to elicit from  
02:17:18 5 Brannigan?

02:17:18 6 MR. NOLAND: That and that -- Mr. Brannigan describes  
02:17:24 7 the evidence supporting why this was crucial and absolutely  
02:17:28 8 necessary which was that three El Rukn cooperators's family  
02:17:32 9 members had been shot or shot at, and so in some way, we feel  
02:17:37 10 we need to address this issue to ameliorate what the testimony  
02:17:42 11 of Ms. Conyers.

02:17:43 12 THE COURT: Let me hear from Mr. Loevy.

02:17:46 13 MR. LOEVY: The testimony at Hunter's deposition is  
02:17:48 14 that Brannigan went with to make the introduction. That's not  
02:17:52 15 impropriety. That's Brannigan went with to make the  
02:17:56 16 introduction.

02:17:56 17 THE COURT: This is from Hunter's deposition or  
02:17:58 18 Brannigan?

02:17:59 19 MR. LOEVY: Hunter says, yes, that I made the  
02:18:01 20 introduction to Dan. What does that have to do with opening  
02:18:03 21 the door to he's in the witness protection program? It has  
02:18:07 22 nothing to do with it. The witness protection stuff has  
02:18:09 23 nothing to do with this case. It implies that Nate --

02:18:11 24 THE COURT: Let me ask you this question. Are you  
02:18:13 25 going to bring out that Mr. Brannigan was involved in the

02:18:16 1 interview?

02:18:16 2 MR. LOEVY: No.

02:18:17 3 THE COURT: Okay. So the predicate for this was  
02:18:20 4 somebody bringing out that Brannigan was involved. Is that --  
02:18:25 5 you said it comes in somehow.

02:18:26 6 MR. NOLAND: That's not the predicate.

02:18:27 7 THE COURT: You started off by saying that some of  
02:18:29 8 the designations that the plaintiff has made from Hunter  
02:18:32 9 indicated that they wanted to bring out that you and  
02:18:35 10 Mr. Brannigan were in on the initial interview and that there  
02:18:38 11 was some suggestion that that was improper.

02:18:39 12 MR. NOLAND: If that's what I was saying, it was the  
02:18:41 13 initial introduction. Mr. Loevy is correct, that's what  
02:18:44 14 Mr. Hunter says.

02:18:44 15 THE COURT: Are you going to bring out the initial  
02:18:46 16 introduction?

02:18:47 17 MR. LOEVY: No.

02:18:47 18 THE COURT: If they are not going to bring it out,  
02:18:49 19 why do you need to go into it?

02:18:50 20 MR. NOLAND: It's designated in there. It's  
02:18:52 21 designated in their Hunter designations.

02:18:54 22 THE COURT: Undesignate it.

02:18:55 23 MR. LOEVY: Or I don't have an objection to him  
02:18:57 24 saying I made the introduction.

02:18:58 25 THE COURT: I understand. You can't control what the

02:19:01 1 man is going to say and what you quoted me as Hunter's  
02:19:04 2 deposition and the witness is Brannigan. So you either  
02:19:06 3 undesignate.

02:19:06 4 MR. LOEVY: We will undesignate.

02:19:08 5 THE COURT: What's the next point then? And there is  
02:19:10 6 not going to be any argument that Brannigan being there was  
02:19:13 7 any effort to influence him.

02:19:15 8 MR. LOEVY: No. The Earl --

02:19:20 9 MR. NOLAND: The photos.

02:19:22 10 MR. LOEVY: The testimony at the criminal trial was  
02:19:25 11 they put 60 bucks in his commissary. There was other  
02:19:29 12 testimony that Earl got other money, that that wasn't elicited  
02:19:33 13 and for his family. All Ms. Conyers did was read the trial  
02:19:38 14 testimony or say I cross-examined him at trial. They want to  
02:19:41 15 put in other evidence --

02:19:42 16 THE COURT: Let me go back. I need to go back and  
02:19:44 17 look at exactly what she said. Was it on her direct or cross  
02:19:49 18 or redirect or redirect?

02:19:51 19 MR. KULWIN: Direct, I believe, Judge.

02:19:55 20 THE COURT: I am going to send the jury out so I can  
02:19:57 21 look at this stuff.

02:20:01 22 (The following proceedings were had in open court in the  
02:20:01 23 presence and hearing of the jury:)

02:20:01 24 THE COURT: There's an issue that's going to require  
02:20:03 25 me to look at the rough transcript from this morning. Rather

02:20:08 1 than have you folks sit here, you can go back there and have  
02:20:13 2 another cup of coffee or something.

02:20:43 3 (The jury leaves the courtroom.).

02:20:43 4 THE COURT: I found it already. I love this thing.  
02:21:04 5 It's so great. I just did a search. I'll just wait until Mr.  
02:21:09 6 Kulwin gets back.

02:21:09 7 MR. NOLAND: Actually, he said proceed without him.  
02:21:11 8 He had to go do something.

02:21:12 9 THE COURT: It was actually the redirect I think.  
02:21:17 10 No, no, my mistake. It's during the direct.

02:21:20 11 Okay. If you're looking for this later, it's about  
02:21:25 12 at 10:46 in the morning. During --

02:21:27 13 "QUESTION: During your cross-examination did Hawkins  
02:21:29 14 reveal that in the past, he had received benefits for his  
02:21:32 15 testimony?

02:21:32 16 "ANSWER: Yes.

02:21:33 17 "QUESTION: What year did he testify that he started to  
02:21:38 18 receiving benefits?

02:21:39 19 "ANSWER: I believe he started receiving benefits in  
02:21:41 20 1987.

02:21:42 21 "QUESTION: Okay. What benefits do you recall Hawkins  
02:21:45 22 testifying in the 2009 trial that he received?

02:21:48 23 "ANSWER: He got to make phone calls to family and  
02:21:51 24 friends from the U.S. Attorney's Office, the U.S. Attorney's  
02:21:54 25 Office put money into his commissary books, approximately \$60

02:21:57 1 I believe a month, the U.S. Attorney's Office gave his family  
02:22:00 2 members money, they were like for the phone calls and he was  
02:22:02 3 also permit today have sex with his girlfriend in the federal  
02:22:07 4 court building.

02:22:08 5 "QUESTION: Okay, during your cross-examination of  
02:22:10 6 Hawkins, did he also testify that he was on death row when he  
02:22:14 7 started cooperating?

02:22:15 8 "ANSWER: That he was the federal jail downtown.

02:22:19 9 "QUESTION: Okay. In your experience in criminal cases  
02:22:22 10 are parties permitted to pay benefits to witnesses? Answer  
02:22:25 11 answer no.

02:22:26 12 "QUESTION: Why not? She starts to answer. I told  
02:22:29 13 Mr. Art to rephrase the question. Let me ask the question in  
02:22:32 14 a different way.

02:22:33 15 In your experience, do the deals that prosecutors  
02:22:36 16 make with witnesses to testify typically involve reducing  
02:22:40 17 prison sentences?

02:22:41 18 "ANSWER: Yes.

02:22:42 19 "QUESTION: In your experience, is it unusual for  
02:22:45 20 prosecutors to receive the type of benefits that Hawkins  
02:22:48 21 received?

02:22:48 22 "ANSWER: Yeah, I think yes.

02:22:50 23 "QUESTION: Is it typical to have sex with your  
02:22:53 24 girlfriend in the federal courthouse?

02:22:54 25 "ANSWER: Practically unheard of."



02:22:57 1 So that's the end of the testimony.

02:22:59 2 And so you want to -- the material that you discussed  
02:23:03 3 in the sidebar, Mr. Noland, is if I'm catching it correctly,  
02:23:09 4 it's essentially to explain why certain aspects of these  
02:23:14 5 benefits were given and specifically it would be the money for  
02:23:19 6 the family members and making phone calls, being able to make  
02:23:27 7 phone calls from the U.S. Attorney's Office?

02:23:28 8 MR. NOLAND: Yes.

02:23:29 9 THE COURT: And so you want -- give me in a nutshell  
02:23:33 10 again what the various points are that you want to elicit from  
02:23:36 11 Mr. Brannigan?

02:23:37 12 MR. NOLAND: Mr. Brannigan would be expected to  
02:23:40 13 testify that the reason phone calls were provided was because  
02:23:43 14 of primarily safety concerns for the families. The El Rukn  
02:23:47 15 cooperators shortly before Mr. Hawkins began to cooperate,  
02:23:53 16 three El Rukn cooperators's family members were shot and/or  
02:23:57 17 shot at. That would be Anthony Sumner, Trammell Davis and  
02:24:01 18 Henry Harris which occurred in late 1987. The benefits and  
02:24:06 19 the cooperation I believe of Mr. Hawkins would be shortly  
02:24:09 20 thereafter in '88 and 89 and Mr. Brannigan explained in an  
02:24:13 21 affidavit submitted in 1995 that that was one of the driving  
02:24:18 22 forces of the overarching concern was safety for the  
02:24:23 23 cooperators who were constantly worried about -- so that would  
02:24:28 24 be number.

02:24:28 25 With respect to the phone calls, so they were keeping



02:24:31 1 in constant contact with the family.

02:24:32 2 THE COURT: So they could keep in touch with their  
02:24:35 3 family.

02:24:35 4 MR. NOLAND: They could keep in touch with them to  
02:24:37 5 make sure they were safe and to keep in contact for those  
02:24:40 6 purposes.

02:24:41 7 And as well there were -- that would be the same  
02:24:45 8 thing for the expenses, the money for the family members which  
02:24:50 9 really would be, you know, relocation expenses.

02:24:52 10 THE COURT: Is that what -- it wasn't clear what she  
02:24:55 11 was saying was -- she said U.S. Attorney's Office gave the  
02:24:58 12 family members money for the phone calls is what she says.

02:25:04 13 MR. LOEVY: Yeah.

02:25:04 14 THE COURT: You're saying there was actually more  
02:25:06 15 money than just for phone calls. There was money for  
02:25:10 16 relocation.

02:25:10 17 MR. NOLAND: I believe it's for relocating the  
02:25:12 18 family, in particular Mr. Hawkins' common law wife was  
02:25:15 19 relocated.

02:25:16 20 THE COURT: The jury already knows he was in witness  
02:25:21 21 protection because he has marshals sitting with them.  
02:25:24 22 Everybody knows that?

02:25:25 23 MR. ART: You instructed them on that, yeah.

02:25:27 24 MR. KULWIN: No, you told them he was in a program.  
02:25:31 25 The compromise was we'll tell them that he is in a government

02:25:35 1 program.

02:25:35 2 MR. ART: About witness relocation.

02:25:37 3 THE COURT: I told them I was in a witness  
02:25:40 4 relocation. I know I didn't say he was in a government  
02:25:42 5 program.

02:25:43 6 MR. KULWIN: Aren't we all?

02:25:44 7 THE COURT: Okay. So let me hear last word on this  
02:25:49 8 from plaintiff's counsel.

02:25:50 9 MR. LOEVY: Your Honor, from our perspective, all  
02:25:52 10 that Mr. Art elicited was this was testified to at the second  
02:25:57 11 criminal trial, it was the subject of cross-examination. They  
02:25:59 12 now want to prove up something that didn't get proved up at  
02:26:01 13 the second criminal trial which is the reason why. You know,  
02:26:04 14 if you want to have -- say that the phone calls were so he  
02:26:08 15 could be in contact with his family, that's one thing. What  
02:26:11 16 Mr. Noland just suggested is oh, he needs to talk to them  
02:26:13 17 because three El Rukns got shot at. It doesn't even follow.

02:26:16 18 THE COURT: This is what the ruling is. First of  
02:26:18 19 all, if all that had been asked was what did he testify to in  
02:26:22 20 the trial and it stopped right there, then I would agree with  
02:26:26 21 you. But it went beyond that. It said it was this question  
02:26:30 22 about whether these benefits were unusual. That was elicited.  
02:26:33 23 Okay? So that means they're entitled to explain that. You  
02:26:41 24 cannot elicit under Rule 403 that there were family members of  
02:26:45 25 other people who were shot. That's just no evidence it's

02:26:49 1 connected to Mr. Fields. It would be wildly unfairly  
02:26:55 2 prejudicial. You can put in that -- and, honestly this is why  
02:26:59 3 we are taking a break so you can go talk to Mr. Brannigan.  
02:27:03 4 That's why I decided to take a break. You can talk to him.  
02:27:06 5 You can elicit from Mr. Brannigan that Mr. Hawkins had  
02:27:10 6 concerns about his family safety because he was cooperating  
02:27:14 7 and that was the reason why he was allowed to make calls from  
02:27:19 8 the U.S. Attorney's Office to check on them. And if he can  
02:27:22 9 honestly testify that there was money given for the relocation  
02:27:24 10 of his family, then he can testify to it because he had  
02:27:28 11 concerns about the safety of his family.

02:27:30 12 MR. NOLAND: May I lead on those two points?

02:27:32 13 THE COURT: You should. You should also go out and  
02:27:34 14 talk to him first to let him know what he can and can't say.

02:27:38 15 MR. KULWIN: Judge, I am going to call down and see  
02:27:41 16 if Mr. Kuhn can come up now.

02:27:43 17 THE COURT: I said 3:00. And it's going to be out of  
02:27:47 18 whack.

02:27:48 19 MR. KULWIN: He came back.

02:27:50 20 MR. LOEVY: He spoke to Mr. Kulwin and I. We can  
02:27:52 21 report to the Court.

02:27:53 22 THE COURT: Maybe we don't need him. What do you  
02:27:56 23 know.

02:27:56 24 MR. LOEVY: He doesn't have Murphy's original notes.  
02:28:00 25 They wouldn't have received Murphy's notes given the time

02:28:04 1 period and all he had was a copy of the deposition.

02:28:07 2 THE COURT: Is that what he said?

02:28:08 3 MR. KULWIN: He said that plus he said that there are  
02:28:12 4 482 boxes down there and there's no way -- and the index is  
02:28:16 5 less than --

02:28:17 6 THE COURT: At least he knows there's 482.

02:28:20 7 MR. KULWIN: He says the index is less than precise.

02:28:22 8 THE COURT: Nobody has to look through 482 boxes. We  
02:28:26 9 don't have to discuss that. You can text Mr. Kuhn back. I  
02:28:30 10 don't need him up there. You now have representation from him  
02:28:33 11 as to what he believes. It's never going to get better than  
02:28:36 12 that unless I order somebody to look through 482 boxes and I  
02:28:40 13 am not sure he can do better than that then. We will figure  
02:28:43 14 out how to deal with this later.

02:28:47 15 Take five minutes.

02:28:49 16 (Short break.)

02:37:34 17 (Witness sworn.)

02:37:47 18 THE COURT: Mr. Noland, you can go ahead.

02:37:49 19 MR. NOLAND: Thank you, your Honor.

02:37:49 20 - - -

02:37:49 21 DANIEL BRANNIGAN, DIRECT EXAMINATION

02:37:49 22 BY MR. NOLAND:

02:37:50 23 Q. Sir, would you please state your name?

02:37:53 24 A. Daniel Brannigan, B-r-a-n-n-i-g-a-n.

02:37:58 25 THE COURT: Let me do this. So you don't need to

02:38:00 1 feel like you have to lean into it, I'll move it a little  
02:38:03 2 closer to you. That's actually plenty close enough.  
02:38:06 3 BY MR. NOLAND:  
02:38:07 4 Q. What is your current occupation?  
02:38:08 5 A. I am an investigator for the state's attorney's office,  
02:38:11 6 Cook County.  
02:38:11 7 Q. And are you retired from the Chicago Police Department  
02:38:15 8 before you started that job?  
02:38:16 9 A. Yes, sir.  
02:38:17 10 Q. And when did you start with the Chicago Police Department?  
02:38:19 11 A. January 1969, 6, January 1969 to be exact.  
02:38:25 12 Q. And can you give the jury just a brief description of your  
02:38:30 13 assignments with the police department from 1969 to about  
02:38:34 14 1974.  
02:38:35 15 A. Basically, patrol, plain clothes unit, and then in '74 I  
02:38:41 16 made detective.  
02:38:42 17 Q. And when you made detective in 1947, where were you  
02:38:46 18 assigned?  
02:38:47 19 A. Initially, I was assigned to the organized crime division,  
02:38:50 20 the intelligence unit working the organized crime.  
02:38:55 21 Q. And then in approximately 1975, did you receive a new  
02:39:00 22 assignment?  
02:39:00 23 A. That's correct.  
02:39:01 24 Q. What was that?  
02:39:01 25 A. I went to the gang crimes unit, gang investigations, gang

02:39:06 1 intelligence.

02:39:06 2 Q. What does the gang crimes, gang intelligence unit do?

02:39:09 3 A. Investigate crimes related to gang members and anything  
02:39:13 4 else we were assigned to do, assist in any other case.

02:39:17 5 Q. And in or about 1977 or 1978, did you receive a more  
02:39:22 6 specific assignment in the gang crimes unit?

02:39:24 7 A. Yes, sir. Myself, my partners and everybody in the gang  
02:39:29 8 intelligence unit was assigned to specific gang or a couple of  
02:39:32 9 gangs.

02:39:32 10 Q. So before that you were just generally working  
02:39:37 11 miscellaneous gang activity and then there was a more specific  
02:39:41 12 assignment in around that time frame in '77?

02:39:44 13 A. That's correct.

02:39:44 14 Q. And what was that assignment that you received?

02:39:48 15 A. I was assigned to devote some of my time and energy to  
02:39:55 16 working the El Rukn street gang.

02:39:57 17 Q. At that time, who were you partnered with?

02:39:59 18 A. I was initially I was partnered with an individual named  
02:40:03 19 Danny Davis.

02:40:04 20 Q. And had Mr. Davis been working that particular  
02:40:09 21 organization for a time?

02:40:10 22 A. Yes, sir, he worked on a plain clothes team in the  
02:40:14 23 district where their base of their operation was, the 21st  
02:40:19 24 district on the south side of the city.

02:40:20 25 Q. And did you learn background information on the

02:40:22 1 organization from Mr. Davis and others in the unit?

02:40:25 2 A. Yes, sir. There were many older people in the unit, older  
02:40:30 3 investigators, detectives officers who had previously worked  
02:40:32 4 on it.

02:40:33 5 Q. Just generally speaking, can you give the background  
02:40:35 6 information with respect to the El Rukn organization that you  
02:40:39 7 were aware of when you started this assignment in around 1977?

02:40:43 8 MR. LOEVY: Objection to relevance, your Honor, and  
02:40:45 9 403.

02:40:46 10 THE COURT: Leading question. Ask it by the way of a  
02:40:52 11 leading question and let's compress it?

02:40:54 12 BY MR. NOLAND:

02:40:54 13 Q. Mr. Brannigan, you are aware that the El Rukn street gang  
02:40:57 14 had a couple prior names; is that correct?

02:40:59 15 A. Correct.

02:41:00 16 MR. LOEVY: Objection, relevance.

02:41:01 17 THE COURT: Rule 403 on that. I didn't realize  
02:41:04 18 that's what you were going into it. I'm sustaining the  
02:41:07 19 objection under Rule 403. It's been covered by a sufficient  
02:41:10 20 number of witnesses at this point.

02:41:11 21 BY MR. NOLAND:

02:41:12 22 Q. About 1977 who was the leader of the El Rukn organization?

02:41:16 23 MR. LOEVY: Objection.

02:41:17 24 THE COURT: Overruled. You can answer that.

02:41:18 25 THE WITNESS: An individual by the name of Jeff Fort.



02:41:20 1 He had become the sole leader of that organization.

02:41:22 2 BY MR. NOLAND:

02:41:23 3 Q. And did you then work -- what did you do for the next five  
02:41:26 4 years or so in this role investigating the El Rukns?

02:41:30 5 A. When not obligated with other assignments, we would try to  
02:41:45 6 stay focused on them, gather intelligence, vehicles that were  
02:41:46 7 utilized, informants, things of that nature, investigate any  
02:41:47 8 cases that were attributed to members of the organization.

02:41:49 9 Q. In connection with that job, did you from time to time  
02:41:54 10 work with some federal agents?

02:41:56 11 A. Yes, sir.

02:41:58 12 MR. LOEVY: Objection to relevance.

02:41:59 13 THE COURT: Overruled.

02:42:01 14 BY MR. NOLAND:

02:42:01 15 Q. What were your -- what was the connection with working  
02:42:03 16 with federal agents in that time frame?

02:42:05 17 A. Basically, it was investigating gun crimes as related to  
02:42:08 18 gang members. Both the El Rukns and any other gang that was  
02:42:12 19 out there.

02:42:12 20 Q. And directing your attention to approximately 1982 or  
02:42:17 21 1983, did you receive a new assignment with respect to the El  
02:42:21 22 Rukns?

02:42:21 23 A. Yes, sir, I did.

02:42:22 24 Q. And when was that specifically?

02:42:24 25 A. I would guess sometime in the summer of '82, maybe, I was



02:42:31 1 assigned to work with some ATF agents.

02:42:33 2 Q. And what were you assigned to do with the ATF agents with  
02:42:37 3 respect to the El Rukns?

02:42:38 4 A. We were assigned to work with the organized crime drug  
02:42:47 5 enforcement task force and see if there was a potential for  
02:42:52 6 putting together a case against the El Rukns.

02:42:56 7 Q. It's true that the task force, the El Rukn task force was  
02:42:59 8 established to investigate El Rukn narcotics dealing and other  
02:43:02 9 illegal and violent activity is that true?

02:43:04 10 A. That's correct.

02:43:05 11 Q. And who put this task force together?

02:43:08 12 A. It was basically -- it was basically two ATF agents, agent  
02:43:14 13 owe Brian and agent wonderful who had previously worked it on  
02:43:19 14 and off. They came up with the idea and submitted the  
02:43:21 15 proposal for this task force to take place.

02:43:24 16 Q. And who was the proposal submitted to?

02:43:27 17 A. The OCDETF group, that's organized crime drug enforcement  
02:43:33 18 task force, one of the big long alphabet agencies.

02:43:37 19 Q. In this task force, were there other alphabet agencies  
02:43:40 20 that were folded into its work?

02:43:42 21 A. Yes, sir, it was FBI, DEA, secret service, that way you  
02:43:50 22 would be able to utilize all the different sources of those  
02:43:53 23 agencies.

02:43:53 24 Q. Mr. Brannigan, can you describe what your duties were with  
02:43:56 25 the task force from when you joined in approximately 1982

02:44:02 1 until 1985?

02:44:03 2 MR. LOEVY: Objection, your Honor.

02:44:07 3 THE COURT: Sustained. Rule 403 and relevance.

02:44:12 4 BY MR. NOLAND:

02:44:13 5 Q. Mr. Brannigan, were you sworn as a federal agent to work  
02:44:17 6 with the task force?

02:44:17 7 A. Yes, sir, I was, after I was vetted.

02:44:20 8 Q. I want to direct your attention to May of 1985?

02:44:29 9 A. Correct. Got you.

02:44:30 10 Q. Was there an assignment that you received relative to the  
02:44:35 11 El Rukns in or about May of 8 of 1985?

02:44:42 12 A. Yes, there was.

02:44:43 13 Q. What was that assignment?

02:44:44 14 A. I was assigned by the U.S. attorney assigned to the case,  
02:44:49 15 Mr. Patrick Deady, Deady, and I was told that there was  
02:44:53 16 information developed in an unrelated investigation by FBI  
02:44:58 17 agents in Washington, D.C.

02:45:01 18 MR. LOEVY: Objection to hearsay and relevance, your  
02:45:02 19 Honor.

02:45:02 20 THE COURT: Let's just stop the answer right there.  
02:45:06 21 Proceed to the next question.

02:45:07 22 BY MR. NOLAND:

02:45:07 23 Q. All right. And did the assignment relate to -- can you  
02:45:11 24 specifically what the assignment related to with respect to  
02:45:14 25 what you were being asked to do?

02:45:16 1 THE COURT: Without disclosing what people from  
02:45:17 2 Washington, D.C. or people said, what was the nature of the  
02:45:21 3 assignment?

02:45:22 4 THE WITNESS: The subject wanted for a triple murder  
02:45:24 5 was hiding in a safe house in east Cleveland, Ohio. An El  
02:45:28 6 Rukn.

02:45:28 7 BY MR. NOLAND:

02:45:29 8 Q. And what was this individual's name?

02:45:31 9 A. James Walker.

02:45:32 10 Q. And what assignment -- what did Mr. Deady ask you to do?

02:45:38 11 A. Mr. Deady requested I accompany FBI agents in east  
02:45:46 12 Cleveland, Ohio in attempt to apprehend Mr. Walker, James  
02:45:51 13 Walker.

02:45:51 14 Q. And to your understanding, why was it you that Mr. Deady  
02:45:56 15 requested to go to east Cleveland?

02:45:58 16 A. I drew the short straw, somebody had to go out there so I  
02:46:03 17 ended up going out there.

02:46:04 18 Q. And would you be able to recognize Mr. Walker?

02:46:07 19 A. That's correct.

02:46:07 20 Q. Did you then fly out to east Cleveland shortly thereafter?

02:46:15 21 A. Yes, sir, the next day, I believe.

02:46:17 22 Q. And when was there ultimately was there a raid that was  
02:46:21 23 conducted at this particular safe house?

02:46:22 24 A. Yes, a raid was conducted by members of the FBI's SWAT  
02:46:27 25 team and other members of their office.

02:46:29 1 Q. When, if you recall, based on reviewing the documents,  
02:46:34 2 when this raid occurred?  
02:46:35 3 A. This, I believe, was the next day, it would have been May  
02:46:39 4 9th. I believe it was a Friday.  
02:46:40 5 Q. And do you have a recollection of what this particular  
02:46:46 6 safe house looked like?  
02:46:47 7 A. I recall it was a large frame type house with maybe some  
02:46:52 8 brick in it or on it, and it was divided up into numerous  
02:47:00 9 rooms later once we got in there.  
02:47:03 10 Q. What time of day did you accompany the FBI agents to this  
02:47:09 11 house?  
02:47:09 12 A. It was early in the morning, 6:00, 7:00 o'clock-ish,  
02:47:13 13 something in that nature.  
02:47:13 14 Q. Can you please describe what happened when you got there?  
02:47:16 15 A. There was a perimeter setup with either members of the  
02:47:21 16 east Cleveland police department or the Cleveland police  
02:47:23 17 department, there was a number of FBI agents who would  
02:47:28 18 actually go on the raid, whatever it was called be and a  
02:47:34 19 couple of other FBI agents and myself.  
02:47:36 20 Q. Who made entry into the house first?  
02:47:38 21 A. The swat team made the initial entry.  
02:47:40 22 Q. And at some point, did you go in?  
02:47:43 23 A. Approximately a minute or so after I was called into the  
02:47:47 24 building.  
02:47:48 25 Q. And what did you see?

02:47:49 1 A. There was -- I was directed to a room and there was an  
02:47:54 2 individual in there sitting on a bed and they were asking me  
02:47:58 3 if it was James Walker and I said, yes, it was.

02:48:00 4 Q. At that time, did you see any other individuals that you  
02:48:02 5 recognized?

02:48:03 6 A. No, sir, I didn't see anyone.

02:48:05 7 Q. Do you know whether or not there was any other individuals  
02:48:07 8 in the safe house at that time?

02:48:08 9 A. Yes, sir. I was certain there were other people in there  
02:48:11 10 because I could still hear commotion going on during the  
02:48:15 11 course of the raid.

02:48:16 12 Q. What happened next with respect to your interaction with  
02:48:20 13 Mr. Walker?

02:48:20 14 A. Mr. Walker and I grabbed Mr. Walker with some other agents  
02:48:26 15 and out the door we went.

02:48:27 16 Q. Where did you go?

02:48:27 17 A. Hopped into a waiting FBI car with a couple of FBI agents  
02:48:33 18 and off we went while the raid continued.

02:48:35 19 MR. LOEVY: Objection to relevance, your Honor.

02:48:36 20 THE COURT: Overruled.

02:48:37 21 BY MR. NOLAND:

02:48:38 22 Q. And what did you -- where did you go with the FBI agents  
02:48:41 23 and Mr. Walker?

02:48:42 24 A. We went -- I believe it was the FBI offices in east  
02:48:46 25 Cleveland -- in Cleveland, Ohio.

02:48:48 1 Q. And when you got there, did you -- what did you do when  
02:48:54 2 you got to the FBI office at east Cleveland?

02:48:56 3 A. Myself and the FBI agents sat down with Mr. Walker,  
02:49:04 4 Mr. Walker was advised that we had an arrest warrant for him,  
02:49:07 5 the murder.

02:49:08 6 MR. LOEVY: Objection to relevance.

02:49:10 7 THE COURT: Sustained as to walker. You need to move  
02:49:14 8 ahead.

02:49:14 9 BY MR. NOLAND:

02:49:15 10 Q. Did you speak with Mr. Walker, did he provide you  
02:49:18 11 information?

02:49:18 12 A. Did Mr. Walker provide me?

02:49:20 13 MR. NOLAND: May I ask that, your Honor?

02:49:21 14 THE COURT: Yes. It's just a yes or no.

02:49:23 15 BY MR. NOLAND:

02:49:24 16 Q. Did Mr. Walker provide you any information?

02:49:25 17 A. He chose not to talk to me or the agents.

02:49:28 18 Q. What happened next after your dealings with Mr. Walker?  
02:49:31 19 Did you go somewhere else?

02:49:32 20 A. Yes, sir, I did.

02:49:33 21 Q. Where is that?

02:49:34 22 A. I went back to the east Cleveland police department.

02:49:36 23 Q. And what happened when you got back to the east Cleveland  
02:49:40 24 police department?

02:49:41 25 A. I learned that there were a number of people arrested at

02:49:47 1 the scene of the raid or inside the safe house in east  
02:49:52 2 Cleveland and they were all in the police station. I was told  
02:49:54 3 that by the FBI agents.  
02:49:55 4 Q. All right. And did you see who these individuals were?  
02:49:58 5 A. Eventually, I did, yes, sir.  
02:50:00 6 Q. And who were they?  
02:50:01 7 A. A couple members of the El Rukns and two other people from  
02:50:07 8 out that way.  
02:50:07 9 Q. And do you recall what their names were?  
02:50:09 10 A. Yes, sir.  
02:50:10 11 Q. Please?  
02:50:12 12 A. There was an Anthony Sumner, there was an Earl Hawkins,  
02:50:17 13 there were two other people who I didn't recognize  
02:50:21 14 immediately, I recognized their faces but didn't know their  
02:50:24 15 name. That would be a J. L Houston and a subject by the name  
02:50:28 16 of Alvin Tony. And there was the individual who kept --  
02:50:32 17 MR. LOEVY: Objection, your Honor.  
02:50:33 18 THE COURT: That's good enough for now.  
02:50:33 19 BY MR. NOLAND:  
02:50:36 20 Q. And did you have to make -- did you make some  
02:50:39 21 notifications back to Chicago when you discovered these  
02:50:42 22 individuals and Mr. Walker at the house?  
02:50:44 23 A. Oh, I made all kinds of notifications back to Chicago that  
02:50:48 24 the raid was successful and now there's other people here.  
02:50:52 25 Q. And at some point during that day, did you learn that



02:50:54 1 there were going to be other individuals in law enforcement  
02:50:56 2 from Chicago out to east Cleveland to join you?

02:50:59 3 A. Later on I learned that yes, sir.

02:51:04 4 Q. What were those other individuals that were going to be  
02:51:06 5 joining you?

02:51:07 6 A. I learned that an assistant state's attorney and a  
02:51:09 7 detective who was handle -- one of the detectives handling the  
02:51:13 8 triple murder that they were on their way out to east  
02:51:16 9 Cleveland.

02:51:16 10 Q. Mr. Brannigan, did you then talk to these other El Rukns  
02:51:22 11 at the east Cleveland police station that you he encountered?

02:51:27 12 A. Yes, I talked to them and the other two individuals who  
02:51:29 13 were not El Rukns.

02:51:30 14 Q. And what was your purpose in talking to these individuals?

02:51:32 15 A. To find out what was going on and who they were. I only  
02:51:35 16 knew who two of them were.

02:51:37 17 Q. Were any efforts made to discover the identity of the  
02:51:40 18 other two individuals?

02:51:41 19 MR. LOEVY: Objection, your Honor. This has nothing  
02:51:44 20 to do with the case.

02:51:44 21 THE COURT: Can I see the lawyers at sidebar, please.  
02:51:52 22 (The following proceedings were had at sidebar outside the  
02:51:53 23 hearing of the jury:)

02:51:53 24 THE COURT: I'm assuming that this is all a prelude  
02:51:56 25 to him interviewing Sumner.



02:51:57 1 MR. NOLAND: Exactly.

02:51:57 2 THE COURT: Let's get to that. Okay?

02:51:59 3 MR. NOLAND: Can I just --

02:52:00 4 THE COURT: I don't understand why we need to go into  
02:52:01 5 all of the other stuff.

02:52:02 6 MR. NOLAND: The important part is the process in  
02:52:05 7 which he was interviewing these individuals so that the other  
02:52:08 8 El Rukns would not discovered that he was talking to  
02:52:11 9 Mr. Sumner and that Mr. Sumner started to provide information  
02:52:13 10 and it would also go to refute the allegations they have made  
02:52:17 11 through Mr. Beseth that Mr. Brannigan physically assaulted  
02:52:21 12 Mr. Sumner providing that statement.

02:52:22 13 THE COURT: I think you can get to all of that  
02:52:24 14 without going through what did the first guy say to you and  
02:52:29 15 what did the second guy say to you and what did the third guy  
02:52:32 16 say to you. I think you can get to those points which I think  
02:52:35 17 are relevant without going through those points.

02:52:37 18 MR. NOLAND: What was the process you utilized in  
02:52:40 19 talking to these individuals generally.

02:52:40 20 MR. LOEVY: He is not giving responsive answers. He  
02:52:42 21 keeps going past the answer.

02:52:43 22 THE COURT: No. Honestly, let's say it. I will rank  
02:52:46 23 him among the witnesses in this case in the non-responsive  
02:52:51 24 scale as pretty good. It doesn't mean he is perfect. It  
02:52:54 25 means he is way better than the average.

02:52:57 1 (The following proceedings were had in open court in the  
02:53:02 2 presence and hearing of the jury:)

02:53:02 3 THE COURT: Okay. Mr. Noland, you can go ahead.

02:53:05 4 MR. NOLAND: Thank you, your Honor.

02:53:06 5 BY MR. NOLAND:

02:53:07 6 Q. Mr. Brannigan, can you explain the process in which you  
02:53:09 7 utilized talking to these four other individuals that you  
02:53:13 8 recognized as El Rukns?

02:53:13 9 A. They were housed in the east Cleveland police station as I  
02:53:19 10 mentioned, they were in the lock up downstairs is my  
02:53:23 11 recollection, and I would bring them up one at a time and  
02:53:26 12 speak to them. And I would speak to them maybe 20 minutes, 25  
02:53:31 13 minutes or so at a time and then bring them back down. I was  
02:53:36 14 trying to find out what was going on and they, of course,  
02:53:41 15 gathering intelligence and they of course were doing the same  
02:53:44 16 thing to me.

02:53:44 17 Q. At a certain point during the day -- did you talk to these  
02:53:48 18 individuals on a few occasions during the day?

02:53:51 19 A. A couple times. Let's pick a number like three, I  
02:53:55 20 believe.

02:53:55 21 Q. At a certain point during the day, did one of them  
02:54:01 22 indicate to you in some way that he may be willing to  
02:54:04 23 cooperate with you?

02:54:05 24 A. Yes, sir, Anthony Sumner was saying things to me. He was  
02:54:09 25 making noise that suggested to me that he might want to

02:54:13 1 cooperate.

02:54:13 2 Q. And can you explain what noise he was making, what things  
02:54:19 3 he was saying that led you to believe that he may be willing  
02:54:21 4 to cooperate?

02:54:21 5 A. Anthony Sumner was telling me that he was the first one to  
02:54:28 6 tell me that they were all on the run that they were in this  
02:54:32 7 safe house, they felt they were being sent out of the country.  
02:54:35 8 I remembered him saying he thought he was going to either  
02:54:40 9 Jamaica or Africa.

02:54:41 10 MR. LOEVY: Objection, your Honor. Nonresponsive.

02:54:43 11 THE COURT: Yeah, no, it was responsive. But let's  
02:54:47 12 ask another question.

02:54:48 13 BY MR. NOLAND:

02:54:49 14 Q. And during that day, did Mr. Sumner actually provide you  
02:54:54 15 -- this is the Friday I think May 10th, 1985, okay?

02:54:58 16 A. Friday of the raid we are talking about.

02:55:00 17 Q. Friday. Friday.

02:55:02 18 A. Okay.

02:55:02 19 Q. That day did Mr. Sumner, do you recall if he provided any  
02:55:06 20 specific information about the triple homicide?

02:55:09 21 A. He didn't provide any information about any crime that  
02:55:13 22 day.

02:55:14 23 Q. Okay. So these indications to you were you felt that he  
02:55:19 24 may be feeling that he wanted to cooperate with your  
02:55:22 25 investigation?

02:55:23 1 A. That's correct.

02:55:24 2 Q. Turning your attention to Saturday, May the 11th, 1985.

02:55:30 3 Had Mr. Wharrie and Mr. Smith and a Chicago police detective,  
02:55:37 4 had they arrived?

02:55:38 5 A. They arrived Friday night is my recollection after I was  
02:55:41 6 done talking to all these guys.

02:55:42 7 Q. And were there further conversations with these four men  
02:55:48 8 on the Saturday?

02:55:50 9 A. On the Saturday before Wharrie and Smith got to the  
02:55:54 10 station, I started the whole process all over again talking to  
02:55:58 11 these guys.

02:55:59 12 Q. And just so we're clear, the other individuals were not --  
02:56:03 13 they weren't providing you any information or giving you any  
02:56:05 14 indication of cooperation?

02:56:06 15 A. No, sir, and the two of them were not even telling me  
02:56:09 16 their names.

02:56:10 17 Q. With respect to Sumner, at some point during that day,  
02:56:15 18 Saturday, did Mr. Sumner provide information with respect to  
02:56:19 19 that triple homicide?

02:56:20 20 A. Yes, sir, he did.

02:56:22 21 Q. And did he indicate the offenders that he was aware of in  
02:56:27 22 the triple homicide?

02:56:28 23 A. Yes, sir.

02:56:29 24 Q. And generally speaking, do you recall who he identified as  
02:56:34 25 being involved in that case?

02:56:35 1 A. Well, he identified James Walker who was already arrested.

02:56:40 2 MR. LOEVY: Objection to relevance, your Honor.

02:56:41 3 THE COURT: Sustained.

02:56:42 4 BY MR. NOLAND:

02:56:43 5 Q. Did Mr. Sumner provide you any information about any other  
02:56:48 6 cases when you were out there in east Cleveland?

02:56:50 7 A. No, just the triple homicide.

02:56:53 8 Q. Did you ask him any questions about any specific other  
02:56:57 9 cases that he might know about?

02:56:58 10 A. No, sir, I had no idea why they were all out there other  
02:57:02 11 than walker.

02:57:03 12 Q. Mr. Brannigan, were the other individuals released later  
02:57:11 13 that day or the next day?

02:57:13 14 A. Yes, sir.

02:57:14 15 Q. And what was the process you utilized in indicating that  
02:57:20 16 the east Cleveland police would be in a position to release  
02:57:23 17 those other individuals?

02:57:24 18 A. Well, as we found out and identified who the individuals  
02:57:29 19 were and whether or not they had any warrants out for them or  
02:57:33 20 any wants on them, they were released. This was done through  
02:57:36 21 their fingerprints being taken. So when the prints came back  
02:57:40 22 identifying somebody as who they were, that there was nobody  
02:57:46 23 looking for them, they were released all but J. L Houston. He  
02:57:51 24 happened to have a warrant on him.

02:57:52 25 MR. LOEVY: Objection, your Honor.

02:57:53 1 THE COURT: The fact that he has a warrant is fine.

02:57:56 2 Keep going.

02:57:56 3 BY MR. NOLAND:

02:57:57 4 Q. Was Earl Hawkins released?

02:57:58 5 A. Earl Hawkins was released, yes, sir.

02:58:00 6 Q. And why was he released?

02:58:02 7 A. There were no wants on him, there were no stop orders on  
02:58:05 8 him, there was no arrest warrants on him, there was no  
02:58:09 9 nothing, so he was released.

02:58:10 10 Q. What happened with Anthony Sumner?

02:58:11 11 A. Anthony Sumner was also cleared, but by this time, he had  
02:58:17 12 begun to cooperate, he told us about the triple homicide.

02:58:21 13 Q. Mr. Brannigan, what was the significance of in your  
02:58:28 14 investigation of Mr. Sumner providing that information to you  
02:58:32 15 at that time?

02:58:32 16 A. Mr. Sumner was the first high ranking member of the  
02:58:37 17 organization that provided us with any, any information  
02:58:42 18 regarding the activities, the illegal activities of that  
02:58:45 19 group.

02:58:46 20 Q. Did you place Mr. Sumner under arrest at that time?

02:58:49 21 A. No, Mr. Sumner was not under arrest. Mr. Sumner was free  
02:58:54 22 to leave.

02:58:54 23 Q. And did you have a discussion with Mr. Sumner about coming  
02:58:58 24 back to Chicago?

02:58:58 25 A. Yes, sir, I did.

02:59:01 1 Q. And please, what was that discussion?

02:59:03 2 A. You're in for a dime, you're in for a dollar. Do you want

02:59:06 3 to come back with me and he said yes.

02:59:08 4 Q. Now, Mr. Brannigan, did you mistreat Anthony Sumner when

02:59:16 5 you were in east Cleveland with him in any way on May the --

02:59:20 6 during that weekend?

02:59:20 7 A. No, sir, I'm trying to recruit him to be a cooperator.

02:59:25 8 Q. Did you hit him?

02:59:26 9 A. No, sir.

02:59:27 10 Q. Did you slam his head against a locker?

02:59:31 11 A. No, sir.

02:59:31 12 Q. Did you tell Mr. Sumner that you were going to put him in

02:59:35 13 the car as the get away driver on the triple homicide?

02:59:38 14 A. No, sir.

02:59:39 15 Q. Did you do anything -- did you do anything physically to

02:59:44 16 Mr. Sumner?

02:59:45 17 A. No, sir.

02:59:45 18 Q. Mr. Brannigan, when did you return to Chicago?

02:59:53 19 A. I came back to Chicago -- came back to Chicago on Monday,

03:00:00 20 I think that would have been the 13th of May.

03:00:01 21 Q. And did you come back with somebody?

03:00:03 22 A. Yes, sir, I did.

03:00:05 23 Q. Who did you come back with?

03:00:07 24 A. Anthony Sumner, I took a plane ride from east Cleveland,

03:00:11 25 Ohio, to Chicago.



03:00:11 1 Q. And was Mr. Sumner brought to the state's attorney's  
03:00:16 2 office?

03:00:16 3 A. Yes, sir, he was.

03:00:17 4 Q. And where is the state's attorney's office?

03:00:20 5 A. For those who are familiar with the city, 2650 south  
03:00:25 6 California avenue, the south side of the city.

03:00:28 7 Q. And what -- where did -- what happened with Mr. Sumner  
03:00:32 8 after you got to the state's attorney's office?

03:00:33 9 A. Mr. Sumner was brought up to the gang prosecution's floor  
03:00:40 10 which was the 13th floor, the administrative floor of the  
03:00:42 11 building, and he met with a number of state's attorneys.

03:00:46 12 Q. And did you have any -- on that Monday, did you have any  
03:00:49 13 further interaction with Sumner?

03:00:50 14 A. No, sir, I didn't. He was turned over to other members of  
03:00:54 15 the gang intelligence unit.

03:00:56 16 Q. Now, turning your attention to the next day,  
03:00:58 17 Mr. Brannigan, May the 14th, 1985. Were there some  
03:01:02 18 debriefings of Sumner at the office?

03:01:04 19 A. That's correct.

03:01:05 20 Q. And please explain to the jury who was involved in those  
03:01:08 21 debriefings?

03:01:09 22 A. There was a number of state's attorneys that were involved  
03:01:14 23 in the debriefing, there was an assistant U.S. attorney  
03:01:17 24 involved, Sergeant Murphy, I think he was a sergeant at the  
03:01:21 25 time, he was involved, I can't remember who else was there.



03:01:26 1 There may have been some people from gangs there in addition  
03:01:28 2 to myself.

03:01:29 3 Q. And what was the room in which this was occurring, the  
03:01:33 4 debriefing?

03:01:33 5 A. It was one of the conference type rooms in the state's  
03:01:40 6 attorney's office, long table surrounded by chairs, conference  
03:01:45 7 table.

03:01:45 8 Q. You were there?

03:01:45 9 A. Yes, sir, I was.

03:01:46 10 Q. And were there -- was somebody asking questions or were  
03:01:51 11 people asking questions of Mr. Sumner?

03:01:52 12 A. A number of people were, but most of them were directed by  
03:01:56 13 Sergeant Murphy.

03:01:56 14 Q. And what kinds of questions was Sergeant Murphy asking  
03:02:00 15 Mr. Sumner?

03:02:01 16 A. He was basically asking I guess you'd call them open-ended  
03:02:07 17 questions, what do you know, what cases can you tell us about,  
03:02:10 18 what can you tell us.

03:02:11 19 Q. And were there notes being taken during this debriefing  
03:02:16 20 process?

03:02:16 21 A. There were note pads all over place. I remember Murphy  
03:02:20 22 taking notes.

03:02:21 23 Q. And were there -- what kinds of paper was being utilized  
03:02:26 24 to take notes?

03:02:26 25 A. I remember legal pads being out and detective -- they call

03:02:35 1 them GPRs, general progress report, just a piece of paper with  
03:02:40 2 lines on it to take additional notes.

03:02:41 3 Q. What was your role in this debriefing process?

03:02:44 4 A. Basically, I was acting as a guide or interpreter into the  
03:02:50 5 world of the El Rukns. Anthony might mention a building that  
03:02:55 6 they had, and I would know the address of that building and I  
03:02:59 7 would relate that to the other people or maybe a nickname,  
03:03:03 8 things of that nature.

03:03:04 9 Q. And without getting into specifics, Mr. Brannigan, isn't  
03:03:09 10 it true that Mr. Sumner provided information about a  
03:03:11 11 significant number of El Rukn murders and shootings?

03:03:16 12 A. That's correct, he did.

03:03:17 13 Q. Isn't it true that Mr. Sumner provided information that  
03:03:20 14 implicated a significant number of other El Rukns?

03:03:22 15 A. That's correct, he did.

03:03:24 16 Q. Now, I want to talk about the Smith and Hickman case. Was  
03:03:30 17 -- did Mr. Sumner provide information about the murders of  
03:03:33 18 Jerome Fuddy Smith and Talman Hickman that day?

03:03:36 19 A. That's correct.

03:03:36 20 Q. And what do you recall about the information Mr. Sumner  
03:03:40 21 provided about those murders?

03:03:41 22 A. The short version of events is he named the four offenders  
03:03:47 23 in the case.

03:03:48 24 Q. And do you recall who he named as the four offenders?

03:03:51 25 A. Nathson Fields and George Carter he identified as the

03:04:00 1 shooters and Hank Andrews he said was one of the get away  
03:04:02 2 drivers along with Earl Hawkins who was kind of orchestrating  
03:04:10 3 and pointing out what was going on.  
03:04:12 4 Q. Did Mr. Sumner identify for those in the room how he had  
03:04:15 5 this information?  
03:04:16 6 A. Yes, sir. He did.  
03:04:18 7 Q. And what did he say?  
03:04:19 8 A. It's my best -- it was a long time ago, but it's my best  
03:04:24 9 recollection he had a conversation with Earl Hawkins a couple  
03:04:28 10 of days after the incident went down, the murder went down,  
03:04:34 11 they were in one of their buildings, and Earl Hawkins told him  
03:04:37 12 that he did it and in passing somewhere, he had a conversation  
03:04:41 13 with Nathson Fields.  
03:04:44 14 Q. And what did Mr. Sumner say on May 14th, 1985, that Mr.  
03:04:50 15 Fields had advised him?  
03:04:50 16 A. He mentioned something about the shooting and Nathson  
03:04:54 17 Fields said it was a good exercise.  
03:04:57 18 Q. And Mr. Brannigan, do you recall if Mr. Sumner provided  
03:05:03 19 information about the Vaughn and white murders on that  
03:05:07 20 particular day?  
03:05:07 21 A. That was one of the cases he talked about, yes, sir.  
03:05:10 22 Q. And what do you recall Sumner said about who did the  
03:05:16 23 Vaughn and White case?  
03:05:17 24 A. Mr. Sumner implicated himself. He said it was himself,  
03:05:22 25 Earl Hawkins, and Nathson Fields that committed that murder,

03:05:26 1 that was a double murder.

03:05:27 2 Q. And was anything about what Mr. Sumner said with respect  
03:05:31 3 to the participants of that that made it seem -- made it  
03:05:36 4 reliable to you?

03:05:36 5 A. Well, the mere fact that he's there providing any  
03:05:40 6 information on the El Rukns made him reliable to me, and the  
03:05:45 7 fact that he implicated himself in this double murder, a home  
03:05:48 8 invasion double murder.

03:05:50 9 Q. Mr. Brannigan, do you know now as you sit here today that  
03:05:54 10 the information that Sumner provided putting Fields into the  
03:06:00 11 Vaughn and White case, do you know that to be false?

03:06:01 12 A. That was absolutely false.

03:06:02 13 Q. Did you know that to be false on May 14th, 1985?

03:06:05 14 A. No, sir, I did not.

03:06:08 15 Q. When did you recall learning for the first time that that  
03:06:11 16 information was false?

03:06:12 17 A. That would have been many years later I learned from one  
03:06:16 18 of the assistant U.S. attorneys, maybe 1991. That's what I  
03:06:22 19 recollect from reviewing all the files.

03:06:24 20 Q. Mr. Brannigan, after Mr. Sumner provided this information,  
03:06:27 21 what happens next with respect to the information he provided?

03:06:30 22 A. A number of arrest reports or arrest packets, arrest  
03:06:37 23 packets on all the wanted individuals were put together. The  
03:06:41 24 state's attorneys were getting arrest warrants for a number of  
03:06:45 25 individuals, and we were preparing to do a series of raids on

03:06:51 1 the locations owned or controlled by members of the El Rukns,  
03:06:56 2 a number of buildings, maybe seven or eight.  
03:06:58 3 Q. And were specific detectives assigned to each of the cases  
03:07:03 4 that Mr. Sumner had provided information about?  
03:07:06 5 A. That's correct. There were teams assigned to each  
03:07:10 6 different individual that there was an arrest warrant on.  
03:07:13 7 Q. Directing your attention to your next involvement with  
03:07:18 8 respect to the case, did you have a role in putting together  
03:07:21 9 these arrest packets?  
03:07:22 10 A. Yes, sir, I was one of the people helping to put the  
03:07:25 11 packets together and work on the logistics from people of the  
03:07:33 12 detective division, the bosses of the detective difficulties.  
03:07:35 13 A. The gang, and the special operations group.  
03:07:38 14 Q. And were then a series of raids conducted on May the 18th,  
03:07:43 15 1985?  
03:07:43 16 A. Yes, sir.  
03:07:44 17 Q. And how many -- were you involved in that raid, in those  
03:07:50 18 raids?  
03:07:50 19 A. Yes, sir, I was. I was one of the participants.  
03:07:52 20 Q. And how many other participants were there in law  
03:07:55 21 enforcement in those raids?  
03:07:56 22 A. There were lots. I mean, it was -- I'll give you a number  
03:08:04 23 of maybe 200 detectives, policemen, K-9 officers, you name it.  
03:08:10 24 Q. And how many different locations were hit that particular  
03:08:14 25 day looking for some of these individuals that there were

03:08:17 1 arrest warrants on?

03:08:18 2 A. Initially we hit all of the buildings owned or controlled  
03:08:20 3 by them and then we worked our way out to other addresses  
03:08:24 4 known to be frequented by the wanted individuals. How many we  
03:08:29 5 actually hit, I couldn't tell you.

03:08:30 6 Q. Where did you go first on that day?

03:08:34 7 A. My first stop was 6416 south Kenwood, that was one of the  
03:08:40 8 buildings they controlled. It was a six flat, if memory  
03:08:45 9 serves me correct, and a few more rooms than a standard six  
03:08:51 10 flat and that was one of their buildings. It was called the  
03:08:54 11 African Hut.

03:08:55 12 Q. Who was believed to be at the African Hut?

03:08:58 13 A. I was going to there to look for my primary assignment was  
03:09:02 14 to go there to look for Earl Hawkins.

03:09:05 15 Q. And was there anybody else at the -- suspected to be at  
03:09:09 16 that building who there was an arrest warrant for that day?

03:09:13 17 A. Nathson Fields also lived at that building or that was our  
03:09:16 18 intelligence, our information.

03:09:18 19 Q. Did you find any of the subjects of the arrest warrants at  
03:09:22 20 the African Hut on May 18, 1985?

03:09:26 21 A. I found Earl Hawkins, myself and my team found Earl  
03:09:29 22 Hawkins.

03:09:29 23 Q. Did you also look for Nathson Fields at the African Hut on  
03:09:32 24 that day?

03:09:33 25 A. Of course we did we had a warrant for him in the same

03:09:37 1 building.

03:09:37 2 Q. And was Mr. Fields located at that time?

03:09:40 3 A. No, sir, he was not located.

03:09:42 4 Q. All right. Did you make other efforts that day to try to  
03:09:46 5 find and serve with the arrest warrants some of the other El  
03:09:53 6 Rukns?

03:09:53 7 A. I was at every building they owned or controlled or any  
03:09:56 8 other addresses that I was aware of for these people.

03:09:59 9 Q. Were all of the subjects of the arrest warrants found on  
03:10:03 10 May 18th, 1985?

03:10:04 11 A. No, sir.

03:10:05 12 Q. In the ensuing days, were there other efforts made to try  
03:10:11 13 to locate Mr. Fields?

03:10:12 14 MR. LOEVY: Objection, your Honor, just this witness'  
03:10:14 15 efforts. I don't think he has foundation for it, relevance.

03:10:18 16 THE COURT: Sustained.

03:10:18 17 BY MR. NOLAND:

03:10:19 18 Q. Mr. Brannigan, did you make other efforts to find Mr.  
03:10:22 19 Fields after May 18, 1985?

03:10:24 20 A. Yes, I did.

03:10:25 21 Q. What did you do?

03:10:25 22 A. I went to every known address there was for him and any of  
03:10:29 23 the other wanted people out there.

03:10:31 24 Q. How many times did you go to the African Hut in the next  
03:10:36 25 several weeks looking for Nathson Fields?



03:10:43 1 A. Way more than one. I couldn't tell you, three or four  
03:10:46 2 times. I wasn't certain. I went to all kinds of addresses,  
03:10:48 3 every one of their buildings.

03:10:49 4 Q. Were you going to the buildings looking for other  
03:10:52 5 individuals as well who hadn't been located?

03:10:54 6 A. That's correct.

03:10:54 7 Q. Now, Mr. Brannigan, what is a UFAP warrant?

03:11:00 8 A. That's another one of these government acronyms, it means  
03:11:04 9 unlawful flight to avoid prosecution warrant.

03:11:08 10 MR. LOEVY: Your Honor, we object to this. There is  
03:11:09 11 no such warrant for Mr. Fields.

03:11:11 12 MR. KULWIN: Objection, Judge, objection to the  
03:11:14 13 speaking objection.

03:11:15 14 THE COURT: I have said that more times than I can  
03:11:17 15 count in this case. The jury is directed to disregard the  
03:11:22 16 comment. Let me see the lawyers at sidebar.

03:11:26 17 (The following proceedings were had at sidebar outside the  
03:11:28 18 hearing of the jury:)

03:11:28 19 THE COURT: You really have to stop doing that. Can  
03:11:31 20 I see it? Okay. So this is a letter, Defendant's Exhibit 84  
03:11:38 21 is a letter to Mr. Valukas, the U.S. attorney requesting  
03:11:48 22 unlawful.

03:11:49 23 MR. NOLAND: The Court previously ruled in the first  
03:11:52 24 trial that this exhibit was admissible.

03:11:55 25 THE COURT: Okay.



03:12:01 1 MR. LOEVY: It has subsequently come to light that  
03:12:04 2 this warrant was never issued, there is no proof that this  
03:12:06 3 warrant was in existence. The reason I did an inappropriate  
03:12:09 4 speaking objection, and it was inappropriate and I apologize,  
03:12:13 5 is because this subject is way out of bounds. They know this  
03:12:16 6 warrant was never issued. They know there is no foundation  
03:12:19 7 for it.

03:12:19 8 THE COURT: Was the warrant ever issued?

03:12:21 9 MR. NOLAND: No, on July 23rd, 1985, there is a memo  
03:12:24 10 in which the FBI agent assigned to issue the warrant had  
03:12:28 11 another assignment so he had not gotten to it. He had  
03:12:31 12 inquired and learned that in fact Mr. Fields had been captured  
03:12:35 13 by that time and so the warrant was canceled. We are seeking  
03:12:38 14 to introduce this because it disproves Mr. Fields claim that  
03:12:43 15 he's made very strongly that law enforcement made no efforts  
03:12:46 16 to find this man and that isn't true, and this is proof of  
03:12:49 17 that.

03:12:49 18 MR. LOEVY: This is extremely inappropriate.

03:12:51 19 THE COURT: Time out. Time out. So the part of  
03:12:57 20 this, the one part of this that I think is potentially  
03:12:59 21 unfairly prejudicial is this unlawful flight thing. It  
03:13:05 22 doesn't imply, it says unlawful flight to avoid prosecution.  
03:13:08 23 So you can with leading questions ask did you make an effort  
03:13:13 24 to get a federal warrant to arrest Mr. Fields? Yes, they did.  
03:13:17 25 What did you do? This exhibit isn't going to go in because it

03:13:20 1 has the unlawful flight language and you can elicit that.

03:13:25 2 MR. LOEVY: Your Honor, may I be heard on that?

03:13:27 3 THE COURT: You have been heard and I ruled. Be.

03:13:31 4 MR. KULWIN: Judge, can you lay a foundation that  
03:13:34 5 this is he's aware that other police officers were also and  
03:13:40 6 Mr. Fields can ask him do you know.

03:13:43 7 MR. LOEVY: It would be hearsay.

03:13:44 8 MR. KULWIN: No.

03:13:44 9 THE COURT: Why would it not be hearsay?

03:13:46 10 MR. KULWIN: Because he is out there searching. He  
03:13:49 11 knows they're out there. It's a very important issue. Mr.  
03:13:54 12 Fields is a strong part of his defense is I am sitting at home  
03:13:59 13 drinking coffee and nobody is out looking for me.

03:14:02 14 THE COURT: I don't know about drinking coffee, but I  
03:14:04 15 get your point.

03:14:05 16 MR. KULWIN: I think it's extremely important. He is  
03:14:07 17 one -- he's where that other officers -- he sees them going  
03:14:12 18 out looking for them. They are all together. You can at  
03:14:15 19 least ask do you know whether other police officers were  
03:14:18 20 searching for Mr. Fields at this time? He can say yes, how do  
03:14:21 21 you know? Because I was out there looking for him with them.

03:14:24 22 MR. LOEVY: Your Honor.

03:14:24 23 THE COURT: Go ahead.

03:14:25 24 MR. LOEVY: He said I made three or four trims.

03:14:27 25 Anybody was, what he can't say is other people. There are no

03:14:33 1 reports. He can't say other people --

03:14:36 2 THE COURT: I am trying to figure out what the  
03:14:37 3 hearsay exception is. Can somebody articulate one for me that  
03:14:41 4 he knows there's other people.

03:14:42 5 MR. KULWIN: It's a verbal act, it's admissible.

03:14:46 6 THE COURT: No, it's not. It's not a verbal act.

03:14:49 7 MR. KULWIN: Okay. How is this? In I'm sitting in  
03:14:51 8 your chambers and the issue is did everybody run out of the  
03:14:54 9 building, I can say, yeah, I know I ran out and I know the  
03:14:57 10 secretary ran out.

03:14:58 11 THE COURT: And you know that because you saw them.

03:15:00 12 MR. KULWIN: Right, he can say the people searching.  
03:15:04 13 Does he know?

03:15:05 14 THE COURT: The distinction that I would draw then is  
03:15:08 15 -- because I mean, if he's searching, he can talk about other  
03:15:11 16 people who were with him, but he can't talk about what he  
03:15:15 17 learned about what other people were doing because that is  
03:15:17 18 hearsay and I can't think of any exception. I'm sitting here  
03:15:20 19 doing a mental inventory through all the exceptions and I  
03:15:23 20 can't come up with one.

03:15:24 21 MR. KULWIN: The last point is it seems to me that he  
03:15:26 22 can say he knows, he knows because he is -- what is he  
03:15:33 23 supposed to do all all 30 members, are you searching, are you  
03:15:37 24 searching? We could do it. I guess we could call 30 other  
03:15:40 25 task force members, we could be here for six months. There is

03:15:44 1 no dispute.

03:15:46 2 MR. LOEVY:

03:15:47 3 MR. KULWIN: May I finish, please? It is ludicrous  
03:15:50 4 to believe that --

03:15:51 5 THE COURT: It's no more ludicrous to believe that  
03:15:55 6 somebody sat on a UFAP letter for two months. You could tell  
03:15:59 7 me that that would be lewd cross too and I would say that is,  
03:16:03 8 and nobody would do that.

03:16:05 9 MR. KULWIN: That did happen. They have a drug task  
03:16:07 10 force, they have four suspects, they arrest Hawkins with this  
03:16:11 11 giant raid with 200 people and they all just go home and say  
03:16:15 12 never mind. He should be able to testify that the importance  
03:16:17 13 of this was to find Nathson Fields and that we were all out  
03:16:21 14 looking for him and it's really unfair and highly prejudicial  
03:16:26 15 to say that I alone was the only one out there. If that's the  
03:16:30 16 rule of the court, I understand that. We have to figure out  
03:16:33 17 how many other police officers we can trot in here and say I  
03:16:36 18 was looking for him too. It's unfair.

03:16:39 19 MR. LOEVY: It's about evidence. It has to be  
03:16:41 20 admissible evidence they were looking for Nathson Fields and  
03:16:43 21 he had as no admissible evidence he looked for Nate Fields.  
03:16:47 22 He did it three or four times . He can't say I know other  
03:16:50 23 people were out looking because that's hearsay and he can't  
03:16:53 24 prove it if it's not admissible.

03:16:55 25 MR. KULWIN: It is admissible because he is on the

03:16:57 1 task force, he knows from participating in the meetings like  
03:17:02 2 is it hearsay? It's like, okay, everybody go out and look for  
03:17:06 3 Fields. That's a directional act.

03:17:07 4 THE COURT: Okay. That is a different story. That  
03:17:09 5 is not the testimony that was being elicited from him. If  
03:17:13 6 somebody was -- if there was testimony that I heard so and so  
03:17:21 7 direct all of us to go out and look for Mr. Fields, he could  
03:17:23 8 elicit that because a direction is not hearsay, but that's not  
03:17:26 9 what you were eliciting from him. I get, yeah, you have to  
03:17:32 10 bring in 20 witnesses, but it is about evidence.

03:17:35 11 MR. KULWIN: So he can ask him in a leading way, do  
03:17:37 12 you know if there was a direction from the task force to go  
03:17:40 13 out looking for Fields.

03:17:42 14 THE COURT: Yes.

03:17:43 15 MR. NOLAND: On the warrant, Mr. Brannigan, I expect  
03:17:45 16 him to testify that the request for a federal warrant would  
03:17:48 17 not be made or approved.

03:17:51 18 THE COURT: You lost me.

03:17:52 19 MR. NOLAND: With Mr. Brannigan, I would like to ask  
03:17:55 20 him if the request for the federal warrant by the chief of the  
03:17:59 21 detective division would not be made without the detectives  
03:18:03 22 and those involved having made efforts to find Mr. Fields.  
03:18:06 23 They are not going to ask for the federal warrant unless they  
03:18:09 24 had made prior efforts.

03:18:11 25 MR. LOEVY: But they didn't get the warrant. That's

03:18:12 1 the point.

03:18:13 2 THE COURT: That's the question. Guys, everybody  
03:18:15 3 stop talking at this point. Okay. So here's the ruling. You  
03:18:21 4 can elicit, you can ask him whether there were directions to  
03:18:24 5 people on the task force to go look for Mr. Fields and other  
03:18:29 6 people with the warrants. You can ask it again. Remind me  
03:18:33 7 what the basis for his knowledge of this is this UFAP thing?

03:18:39 8 MR. NOLAND: Because the UFAPs have to go from the  
03:18:42 9 chief to the detective division.

03:18:44 10 THE COURT: You can ask him without using UFAP,  
03:18:47 11 unlawful flight, avoid prosecution or anything like that, you  
03:18:50 12 can ask him what's the process for obtaining a federal warrant  
03:18:54 13 in a situation like this, who does it have to go through, and  
03:18:59 14 then you can ask him was there a request made. Okay? I'm  
03:19:03 15 done. There.

03:19:08 16 (The following proceedings were had in open court in the  
03:19:08 17 presence and hearing of the jury:)

03:19:08 18 THE COURT: Okay. Go ahead. Consistent with the  
03:19:17 19 sidebar.

03:19:17 20 MR. NOLAND: Thank you, your Honor.

03:19:18 21 BY MR. NOLAND:

03:19:19 22 Q. Mr. Brannigan, what's the process for obtaining -- making  
03:19:25 23 the request for a federal warrant?

03:19:29 24 THE COURT: In this type of situation?

03:19:29 25 BY MR. NOLAND:

03:19:31 1 Q. In this --

03:19:32 2 THE COURT: What's the process that would have been  
03:19:33 3 gone through at that time to obtain a warrant in this type of  
03:19:36 4 situation?

03:19:37 5 THE WITNESS: The chief of detective is notified of  
03:19:39 6 the facts and circumstances of what has been done so far and  
03:19:43 7 then the chief of detectives for the Chicago Police Department  
03:19:47 8 would then write another memo or letter to the head of the FBI  
03:19:55 9 and to the U.S. Attorney's Office.

03:19:57 10 THE COURT: All right.

03:19:58 11 THE WITNESS: Requesting the warrant.

03:20:00 12 BY MR. NOLAND:

03:20:01 13 Q. And what has been done is what has been done to look for  
03:20:04 14 this particular subject before the chief of detectives is  
03:20:05 15 going to ask the federal government to get involved; is that  
03:20:05 16 right?

03:20:08 17 A. That's correct.

03:20:09 18 Q. And Mr. Brannigan, was -- to your knowledge, did the chief  
03:20:15 19 of detectives of the Chicago Police Department make a request  
03:20:19 20 for a federal warrant for Nathson Fields on or about May 23rd,  
03:20:26 21 1985, for the federal government to issue a warrant to capture  
03:20:31 22 him for the case for which he had an arrest warrant?

03:20:35 23 A. That's correct.

03:20:36 24 Q. Now, Mr. Brannigan, you've testified that you personally  
03:20:43 25 went out looking for other El Rukns and Mr. Fields after May



03:20:48 1 18th, 1985; is that right?

03:20:50 2 A. Correct.

03:20:50 3 Q. Was there a direction for yourself and others from  
03:20:56 4 supervisors to go and try to find Mr. Fields and the other El  
03:21:00 5 Rukns who had not been captured, had there been an order  
03:21:04 6 provided to you?

03:21:04 7 A. Yes, sir.

03:21:05 8 Q. Based upon that order, were other individuals other than  
03:21:11 9 yourself directed to attempt to find Mr. Fields?

03:21:16 10 MR. LOEVY: Objection, foundation, your Honor.

03:21:17 11 THE COURT: Overruled.

03:21:18 12 THE WITNESS: Yes, sir.

03:21:19 13 BY MR. NOLAND:

03:21:19 14 Q. And who were those other individuals that were directed to  
03:21:23 15 attempt to find Mr. Fields and the other El Rukns who had not  
03:21:28 16 been captured?

03:21:29 17 THE COURT: That's the thing you can't do.

03:21:31 18 THE WITNESS: I'm sorry?

03:21:32 19 MR. NOLAND: Withdrawn.

03:21:33 20 THE COURT: Okay.

03:21:33 21 BY MR. NOLAND:

03:21:35 22 Q. Did you find Mr. Fields on the other occasions that you  
03:21:37 23 went looking for him?

03:21:38 24 A. No, sir, I did not.

03:21:39 25 Q. Did you learn that Mr. Fields in fact was captured on June



03:21:44 1 the 13th, 1985?

03:21:46 2 A. Yes, sir.

03:21:46 3 Q. Okay. Mr. Brannigan, I'd like to return to Anthony

03:21:50 4 Sumner. We had talked about that you were involved in a

03:21:53 5 debriefing of Mr. Sumner on May 14th, 85, correct?

03:21:57 6 A. Correct.

03:21:58 7 Q. What was done with Mr. Sumner after May 14th, 1985?

03:22:02 8 A. There was at least one more debriefing that I am aware of.

03:22:09 9 I did not participate in it, but one with the U.S. attorney in

03:22:13 10 the federal building.

03:22:14 11 Q. And then at some point was Mr. Sumner relocated out of

03:22:17 12 Chicago?

03:22:18 13 A. Correct. Immediately or almost immediately upon the

03:22:22 14 debriefings, he was relocated up to the Gurnee area.

03:22:27 15 Q. And how long did he spend in Gurnee?

03:22:30 16 A. I would, with the passage of time, I'd guess about two

03:22:39 17 weeks, ten days.

03:22:39 18 Q. With as there a federal agent assigned to be with

03:22:42 19 Mr. Sumner at that time?

03:22:43 20 A. There was always somebody with him for security.

03:22:45 21 Q. And then was Mr. Sumner relocated out of the Chicago area?

03:22:48 22 A. That's correct.

03:22:48 23 Q. Where was that?

03:22:50 24 A. He was relocated to Indianapolis, Indiana.

03:22:53 25 Q. Who relocated Mr. Sumner to Indianapolis?

03:22:56 1 A. Members of the task force.

03:22:58 2 Q. Do you know specifically who did that?

03:23:02 3 MR. LOEVY: Objection to relevance, your Honor.

03:23:04 4 THE COURT: Overruled.

03:23:04 5 THE WITNESS: My partner, Richard k-o-l-o-v-i-t-z,  
03:23:11 6 and I believe it was agent owe Brian and agent wolf. I don't  
03:23:16 7 know who else may have assisted them. I can't recall at this  
03:23:18 8 time.

03:23:19 9 BY MR. NOLAND:

03:23:20 10 Q. A few months later, Mr. Brannigan, did you learn that  
03:23:25 11 Anthony Sumner had disappeared?

03:23:26 12 A. Yes, sir, I did.

03:23:29 13 Q. And at some point did you learn that Anthony Sumner had  
03:23:32 14 gone back to the El Rukns?

03:23:33 15 A. That's correct.

03:23:34 16 Q. What did you learn about why Anthony Sumner returned to  
03:23:38 17 the El Rukns?

03:23:39 18 MR. LOEVY: Objection, hearsay.

03:23:41 19 THE COURT: Overruled.

03:23:43 20 THE WITNESS: The investigation disclosed that  
03:23:47 21 Anthony Sumner's wife, Brenda, she was be very upset about.

03:23:53 22 MR. LOEVY: Objection, your Honor.

03:23:54 23 THE COURT: Very upset is sufficient.

03:23:57 24 BY MR. NOLAND:

03:23:58 25 Q. At some point, Mr. Brannigan, did you learn that Anthony

03:24:02 1 Sumner had provided a recant statement?

03:24:06 2 A. Yes, sir.

03:24:06 3 Q. And did you learn that the recant statement made

03:24:12 4 allegations against you that you had physically mistreated him

03:24:17 5 out in east Cleveland?

03:24:20 6 A. Yes, sir.

03:24:20 7 Q. Mr. Brannigan, directing your attention to February 1986,

03:24:27 8 were you contacted by somebody?

03:24:29 9 A. Yes, sir, I was.

03:24:31 10 Q. And who is that?

03:24:32 11 A. Anthony Sumner.

03:24:33 12 Q. How did Mr. Sumner contact you?

03:24:40 13 A. He could he tacked me, he paged me at my pager number. No

03:24:46 14 cell phones back then.

03:24:47 15 Q. Do you remember a specific day?

03:24:49 16 A. Oh, yes.

03:24:49 17 Q. What day was that?

03:24:50 18 A. It was Valentine's Day. I was trying to have a

03:24:54 19 Valentine's dinner.

03:24:54 20 Q. And at that time, what was your conversation with Sumner

03:24:58 21 at that time when he contacted you?

03:24:59 22 A. Hello, where have you been, what's going on, are you

03:25:04 23 coming back, yes, okay.

03:25:06 24 Q. And did Sumner turn himself in shortly thereafter?

03:25:09 25 A. That night, yes, sir.

03:25:11 1 Q. And was Sumner charged with anything after returning to  
03:25:17 2 law enforcement?

03:25:17 3 A. Yes, sir, he was.

03:25:19 4 Q. What's that?

03:25:19 5 A. Yes, sir, he was.

03:25:21 6 Q. And what was he charged with?

03:25:22 7 A. The Vaughn/White murder, the double murder.

03:25:26 8 Q. Mr. Brannigan, you are aware that the Smith and Hickman  
03:25:35 9 double murder case proceeded to trial in June of 1986 before  
03:25:40 10 Judge Maloney; is that right?

03:25:41 11 A. That's correct.

03:25:43 12 MR. NOLAND: Judge, may I have the ELMO?

03:25:45 13 THE COURT: Yep. I think it's on, actually.

03:25:50 14 BY MR. NOLAND:

03:25:58 15 Q. Mr. Brannigan?

03:25:59 16 MR. LOEVY: Objection, your Honor. This has already  
03:26:02 17 been published to the jury.

03:26:03 18 THE COURT: Overruled. Overruled.

03:26:05 19 BY MR. NOLAND:

03:26:06 20 Q. I am going to read you some of the testimony of Anthony  
03:26:08 21 Sumner at the June 1986 trial.

03:26:12 22 "QUESTION: When you came back, did you speak to any El  
03:26:18 23 Rukns?

03:26:18 24 "ANSWER: Yes.

03:26:19 25 "QUESTION: And who did you speak to?

03:26:21 1 "ANSWER: Sammy Knox and Jeff Ford

03:26:24 2 "QUESTION: Sammy Knox and Jeff Ford?

03:26:26 3 "ANSWER: Yes

03:26:28 4 "QUESTION: What is Sammy Knox's real name?

03:26:31 5 "ANSWER: General I shall mail

03:26:34 6 "QUESTION: And how did you talk to Jeff Fort, in

03:26:37 7 person or by telephone?

03:26:39 8 "ANSWER: Over the phone

03:26:40 9 "QUESTION: Where was Jeff Fort at when you talked to

03:26:43 10 him?

03:26:43 11 "ANSWER: In the federal penitentiary.

03:26:45 12 "QUESTION: What did Jeff Ford say to you over the

03:26:48 13 telephone, if anything?

03:26:49 14 "ANSWER: He told medical that I wouldn't have to worry

03:26:57 15 and just go along with the lawyers and do what the gentle me

03:27:03 16 to do and to say what the gentle me to say and I won't have to

03:27:07 17 worry about nothing happening to me or my kids.

03:27:11 18 "QUESTION: Or your kids?

03:27:13 19 "ANSWER: Yes.

03:27:20 20 "QUESTION: Did you then talk to general Ishmael, Sammy

03:27:24 21 Knox?

03:27:25 22 "ANSWER: Yes."

03:27:28 23 Turning to page 1137. Continued testimony of Anthony

03:27:40 24 Sumner.

03:27:41 25 "QUESTION: Do you know

03:27:43 1 MR. LOEVY: Same objection, it's republication of  
03:27:45 2 stuff that's already been published.

03:27:46 3 THE COURT: Overruled.

03:27:48 4 BY MR. NOLAND:

03:27:49 5 Q. Do you know if Earl Washington represented some El Rukns  
03:27:52 6 at that time?

03:27:52 7 "ANSWER: Yes.

03:27:54 8 "QUESTION: Did you know if Mr. Swano represented some  
03:27:57 9 El Rukns?

03:27:58 10 "ANSWER: Yes.

03:27:58 11 "QUESTION: Did you in fact go down to Mr. Washington's  
03:28:04 12 office, the Hancock building, and talk to them?

03:28:06 13 "ANSWER: Yes.

03:28:07 14 "QUESTION: Tell the ladies and gentlemen how you got  
03:28:10 15 down to the Hancock building for that interview.

03:28:14 16 "ANSWER: Sammy Knox and Selin, took me down there.

03:28:20 17 "QUESTION: Who is Selin?

03:28:21 18 "ANSWER: A general.

03:28:22 19 "QUESTION: Before you went down to talk to those  
03:28:24 20 lawyers, did Sammy Knox say anything to you?

03:28:27 21 "ANSWER: Yes.

03:28:28 22 "QUESTION: What did he say?

03:28:31 23 "ANSWER: He said just say was I said before, that  
03:28:37 24 everything that I said was a lie and that the police beat me,  
03:28:45 25 and if they who brought you down here tell them one of your

03:28:50 1 relatives, tell them one of your relatives?

03:28:55 2 "QUESTION: Did you then give a so-called voluntary  
03:28:58 3 statement to Mr. Swano and Mr. Washington?

03:28:59 4 "ANSWER: Yes.

03:29:00 5 "QUESTION: And when you got done with that interview,  
03:29:04 6 with the lawyers, did you see Sammy Knox?

03:29:06 7 "ANSWER: Yes.

03:29:08 8 "QUESTION: Did he have any questions for you relative  
03:29:09 9 to what happened in the interview in

03:29:11 10 "ANSWER: No response.

03:29:13 11 "QUESTION: Did you talk to him about it?

03:29:15 12 "ANSWER: Yes."

03:29:21 13 Those questions were asked and those answers were  
03:29:24 14 given is that right?

03:29:25 15 A. That's correct.

03:29:25 16 Q. Mr. Brannigan, who is Sal even who is referred to in that  
03:29:38 17 transcript?

03:29:38 18 A. That would be Eugene Hunter, one of the El Rukn generals.

03:29:42 19 Q. Turning your attention to February 1987, did you receive a  
03:29:58 20 letter from somebody? Showing what's in evidence as  
03:30:06 21 defendants' 106.

03:30:08 22 MR. LOEVY: No objection, your Honor.

03:30:09 23 THE COURT: All right.

03:30:12 24 BY MR. NOLAND:

03:30:13 25 Q. Did you receive this letter?

03:30:14 1 A. Yes, sir, I did.

03:30:17 2 THE COURT: You said no objection, Mr. Loevy?

03:30:19 3 MR. LOEVY: Yes.

03:30:20 4 BY MR. NOLAND:

03:30:21 5 Q. Who is this letter from?

03:30:22 6 A. This is from Earl Hawkins.

03:30:23 7 Q. Was this letter solicited by you?

03:30:26 8 A. No, sir.

03:30:26 9 Q. The letter states, dear Daniel, I write you in hope that

03:30:33 10 in best interest of you and can talk hoping you and I can come

03:30:38 11 to some mutual understanding that can benefit us both I am

03:30:42 12 sure before February 2. Earl Hawkins N-63645, detective

03:30:50 13 Daniel Brannigan. Did you receive this letter?

03:30:52 14 A. Yes, sir, I did.

03:30:53 15 Q. Do you know what the date was of February 2nd?

03:30:57 16 A. I learned later, yes, sir.

03:30:58 17 Q. What was that?

03:30:59 18 A. It was one of the dates that was set for Earl Hawkins's

03:31:04 19 execution for the double murder.

03:31:05 20 Q. Mr. Brannigan, what did you do after you received this

03:31:11 21 letter?

03:31:11 22 A. I made the state's attorneys, the USA attorney, and my

03:31:18 23 bosses aware of the letter.

03:31:19 24 Q. And what action did you take next after notifying those

03:31:25 25 personnel?



03:31:25 1 A. Eventually I went down to Menard prison.

03:31:30 2 Q. And who did you go with?

03:31:31 3 A. I went with Murphy, Sergeant Murphy at the time.

03:31:34 4 Q. And did you meet with Earl Hawkins?

03:31:37 5 A. Yes, sir, we did.

03:31:38 6 Q. And Mr. Brannigan, can you describe for the jury what was

03:31:41 7 said in that conversation between you and Sergeant Murphy and

03:31:46 8 Earl Hawkins?

03:31:46 9 A. Earl Hawkins said he wanted to cooperate with the law

03:31:54 10 enforcement into the investigation that was at hand on the El

03:31:57 11 Rukns.

03:31:57 12 Q. And what did you say to him in response?

03:32:01 13 A. More than willing to have you cooperate. We need all the

03:32:10 14 help we can get, something to that effect.

03:32:12 15 Q. And was there discussion whether or not you could do

03:32:14 16 anything for Mr. Hawkins?

03:32:15 17 A. Yeah, he wanted to get out of jail free card, but we told

03:32:20 18 him it doesn't work that way.

03:32:22 19 Q. What did you tell him with respect to what he was saying?

03:32:26 20 A. Well, Mr. Hawkins was told that we can't make a deal with

03:32:29 21 him. We can only promise that every scrap of information and

03:32:34 22 every bit of cooperation he provides will be brought to the

03:32:37 23 attention of the state's attorneys, his attorneys, and any

03:32:41 24 entity he comes before at a later date, any judge, anyone, the

03:32:45 25 full extent of his cooperation will be made known. But as far

03:32:50 1 as promising you anything about getting out of jail at a  
03:32:52 2 certain time, no can do, and I believe Mr. Hawkins was well  
03:32:56 3 aware of that.

03:32:56 4 Q. Was that discussion the type of discussion you've had with  
03:33:01 5 many other potential cooperating individuals?

03:33:04 6 A. Before, at that one and to this day.

03:33:07 7 Q. What happened after you left Menard that day and got back  
03:33:15 8 to Chicago?

03:33:15 9 A. At some point we notified the state's attorneys, the U.S.  
03:33:22 10 attorney what was going on that Earl Hawkins had agreed to  
03:33:27 11 cooperate with the investigation.

03:33:28 12 Q. And was Mr. Hawkins then at some point brought back to  
03:33:31 13 Chicago?

03:33:32 14 A. Yes, several weeks later. I can't remember how long.

03:33:37 15 Q. Now, Mr. Brannigan, Mr. Hawk was allowed to make telephone  
03:33:49 16 calls while he was in federal custody as a cooperating witness  
03:33:52 17 with family members is that true?

03:33:54 18 A. That's correct.

03:33:54 19 Q. And isn't it true, Mr. Brannigan, that he was allowed to  
03:34:00 20 make those telephone calls to his family for safety reasons so  
03:34:05 21 that he could checkup on them; is that right?

03:34:07 22 A. Correct.

03:34:07 23 Q. In addition, Mr. Brannigan was Mr. Hawkins' common law  
03:34:14 24 wife relocated at or around the time that he was cooperating?

03:34:19 25 A. That's correct.

03:34:21 1 Q. And Mr. Brannigan, it's true that she was relocated for  
03:34:26 2 her own safety as a result of the cooperation that he was  
03:34:29 3 providing?

03:34:29 4 A. That's correct.

03:34:30 5 Q. Now, in July of 2014, were you asked to write a letter for  
03:34:45 6 Earl Hawkins?

03:34:45 7 A. Yes, sir, I was.

03:34:47 8 Q. And who asked you to do that?

03:34:48 9 A. It was his attorney and it came through William Hogan, an  
03:34:55 10 assistant U.S. attorney in this building.

03:34:57 11 Q. And what did they say to you when they asked you to write  
03:35:00 12 this letter?

03:35:01 13 A. Would you document what you had told him before, that you  
03:35:06 14 would in fact notify anybody, any entity, any judge, any  
03:35:10 15 parole board, any anything he came before the extent of his  
03:35:16 16 cooperation.

03:35:16 17 Q. And did you agree to do that?

03:35:18 18 A. Yes, sir, I did.

03:35:18 19 Q. When did you -- did you learn at some point that he had a  
03:35:22 20 parole hearing in July of 2014?

03:35:24 21 A. I knew he had one coming up, yes, sir.

03:35:27 22 Q. And did you learn that -- when, approximately, did you  
03:35:32 23 learn that Mr. Hawkins had a parole hearing in July of 2014?

03:35:37 24 MR. LOEVY: Your Honor, our objection is this would  
03:35:39 25 open the door.

03:35:39 1 THE COURT: Overruled. Worry about what it does and  
03:35:44 2 doesn't do until later. There is no basis --

03:35:49 3 THE WITNESS: Could you back up?

03:35:50 4 BY MR. NOLAND:

03:35:50 5 Q. Sure.

03:35:51 6 Did you know in April of 2014 that Hawkins had a  
03:35:55 7 parole hearing in July of 2014?

03:35:56 8 A. I knew there was one coming up. I don't remember if I  
03:35:59 9 knew exactly when.

03:36:01 10 Q. Okay. And did you have an understanding of whether or not  
03:36:07 11 Mr. Hawkins was likely to receive parole in July of 2014?

03:36:12 12 A. No, it was my understanding he was not going to get  
03:36:17 13 parole. They just wanted that letter.

03:36:19 14 MR. LOEVY: Foundation, your Honor.

03:36:20 15 THE COURT: Go ahead and lay the foundation.

03:36:24 16 BY MR. NOLAND:

03:36:26 17 Q. Were you advised when you were asked to write  
03:36:28 18 correspondence for Mr. Hawkins whether or not there was a  
03:36:32 19 likelihood that he would receive parole in the summer of 2014?

03:36:35 20 A. I was advised that he was not going to receive parole. He  
03:36:43 21 was not eligible yet. That was my understanding.

03:36:45 22 MR. LOEVY: Same objection, your Honor.

03:36:46 23 THE COURT: Overruled.

03:36:46 24 BY MR. NOLAND:

03:36:46 25 Q. Did you have an understanding of when he was going to be

03:36:49 1 eligible for parole?

03:36:50 2 A. I don't remember the date, but it was always that he would  
03:36:54 3 be eligible, he would be around 72 when he would be able to  
03:36:59 4 receive parole. That was my understanding.

03:37:01 5 Q. Then why were they asking his lawyer and the U.S.  
03:37:05 6 Attorney's Office asking for a letter from you in July of  
03:37:08 7 2014?

03:37:10 8 MR. LOEVY: Objection to anybody asking.

03:37:11 9 THE COURT: Sustained the way it was asked. Why was  
03:37:13 10 somebody else asking for it. You can ask it in a different  
03:37:15 11 way.

03:37:16 12 BY MR. NOLAND:

03:37:16 13 Q. Were you told -- were you told in these conversations when  
03:37:18 14 you were being asked for a letter?

03:37:20 15 MR. LOEVY: Same objection, your Honor.

03:37:22 16 THE COURT: Let me hear the question.

03:37:24 17 BY MR. NOLAND:

03:37:25 18 Q. Why it was that you were being asked to provide a letter  
03:37:28 19 if in fact Mr. Hawkins wasn't eligible for parole until 2027?

03:37:34 20 THE COURT: And the objection is what?

03:37:35 21 MR. LOEVY: There is no foundation.

03:37:36 22 THE COURT: The objection is what, foundation,  
03:37:38 23 something else, what?

03:37:38 24 MR. LOEVY: Asked to provide a letter.

03:37:43 25 THE COURT: Is the objection to lack of foundation?

03:37:45 1 MR. LOEVY: Yes, your Honor.

03:37:45 2 THE COURT: So it's a yes, no, question whether he  
03:37:52 3 was asked. If the answer is yes, then the next question is  
03:37:54 4 who asked, and then we go from there.

03:37:56 5 So were you asked in.

03:37:57 6 THE WITNESS: Was I asked? Yes, sir.

03:38:00 7 THE COURT: Okay. By who?

03:38:00 8 BY MR. NOLAND:

03:38:01 9 Q. Who asked you?

03:38:03 10 A. The U.S. attorney or his attorney through the U.S.  
03:38:06 11 attorney.

03:38:07 12 THE COURT: Okay.

03:38:07 13 THE WITNESS: That was my understanding.

03:38:09 14 THE COURT: Now, you can go ahead and ask the  
03:38:10 15 question.

03:38:11 16 BY MR. NOLAND:

03:38:12 17 Q. And what was said to you about why they were asking for  
03:38:14 18 you to write a letter at that time in July 2014 if he wasn't  
03:38:20 19 going to get out until 2027?

03:38:22 20 A. All right. The black humor was that you're going to be  
03:38:29 21 dead soon and I want a letter in my file requesting parole  
03:38:34 22 before you die, meaning me. I'm old. Getting older.

03:38:40 23 Q. Did that letter that you provided in July 2014 have  
03:38:45 24 anything to do with his civil case that we're here for today?

03:38:48 25 A. No, sir.

03:38:48 1 Q. Why did you provide that letter on Mr. Hawkins' behalf?

03:38:54 2 MR. LOEVY: Objection, asked and answered.

03:38:55 3 THE COURT: Sustained. No, you can answer that  
03:38:58 4 question. He didn't tie that up yet. Why did you provide the  
03:39:01 5 letter?

03:39:01 6 THE WITNESS: Because I was obligated to do it. I  
03:39:03 7 told him I would. It was a moral obligation to do it.

03:39:09 8 BY MR. NOLAND:

03:39:10 9 Q. And was the -- what information had Mr. Hawkins provided  
03:39:17 10 to give you that obligation in your mind to write that letter  
03:39:21 11 on his behalf?

03:39:21 12 A. He testified in numerous, numerous federal and state  
03:39:26 13 trials regarding illegal activities of the El Rukn  
03:39:31 14 organization, and he was a principal player in helping to  
03:39:35 15 bring them down.

03:39:37 16 MR. NOLAND: Your Honor, may I have one moment,  
03:39:39 17 please?

03:39:39 18 THE COURT: Yeah.

03:39:40 19 (Brief pause.)

03:39:48 20 MR. KULWIN: No further questions.

03:39:49 21 THE COURT: Are you going to have questions, Mr.  
03:39:50 22 Kulwin?

03:39:51 23 MR. KULWIN: No.

03:39:51 24 THE COURT: Since we took our break earlier, we are  
03:39:53 25 going to take a 10-minute break right here and then we will go



03:39:57 1 until 4:45. (The jury leaves the courtroom.)

03:40:35 2 THE COURT: What is it.

03:40:37 3 MR. LOEVY: The issue is that Mr. Brannigan, the  
03:40:40 4 strong impression was just laid that Mr. Brannigan wrote the  
03:40:44 5 letter because he had a moral obligation and --

03:40:47 6 THE COURT: It wasn't a strong impression. It was  
03:40:49 7 testimony just to be clear about it.

03:40:50 8 MR. LOEVY: And that any law enforcement would do the  
03:40:55 9 same.

03:40:55 10 THE COURT: He didn't say any other law enforcement  
03:40:57 11 would do the same. He did it.

03:41:01 12 MR. LOEVY: The door was opened that at the time he  
03:41:03 13 opened it he was in the exact same position as Murphy and  
03:41:06 14 O'Callaghan as a defendant in the case. What they attempted  
03:41:08 15 to do was show it's normal that O'Callaghan would write this  
03:41:11 16 letter. This guy Brannigan doesn't have a horse in the race  
03:41:13 17 and he wrote the letter.

03:41:14 18 THE COURT: Who you would you propose to get into  
03:41:16 19 that?

03:41:17 20 MR. LOEVY: Isn't it true that at the time you wrote  
03:41:19 21 the letter, you were a party to this case. That's the only  
03:41:22 22 fairway to resolve it. The only way they asked those  
03:41:25 23 questions was to imply that a reasonable law enforcement  
03:41:27 24 officer like O'Callaghan would do it because he has a moral  
03:41:30 25 obligation. There is no terrible prejudice to saying, you



03:41:33 1 were -- in fact, it probably hurts us that you formally were a  
03:41:37 2 party because it looks like he got out. We cannot have our  
03:41:40 3 hands tied to show that he is just not objective.

03:41:44 4 THE COURT: Mr. Noland.

03:41:44 5 MR. NOLAND: Judge, it certainly wasn't our intent.  
03:41:47 6 It was simply that he wrote a letter --

03:41:49 7 THE COURT: It did get flagged, even though I cut  
03:41:51 8 Mr. Loevy off in front of the jury, he did say it opens the  
03:41:54 9 door.

03:41:54 10 MR. NOLAND: We expected Mr. Loevy to ask the  
03:41:57 11 questions about the letter if we didn't ask the questions and  
03:42:00 12 we don't believe. It was simple answers, he made his promise,  
03:42:04 13 he wrote the letter, he was requested to do so.

03:42:07 14 THE COURT: You are not addressing the point that was  
03:42:09 15 made. The point that was made is you're basically putting  
03:42:13 16 this as sort of 404(b) -- other act evidence so to speak that  
03:42:17 17 other law enforcement officers who were not similarly situated  
03:42:19 18 to Mr. O'Callaghan or Mr. Murphy, it wasn't a similar, it was  
03:42:25 19 Mr. O'Callaghan that wrote the letter, if I recall correctly,  
03:42:28 20 for the parole hearing, that other law enforcement officers  
03:42:30 21 that weren't similarly situated to Mr. O'Callaghan also wrote  
03:42:34 22 a letter which tends to suggest that it's -- it puts in it its  
03:42:41 23 best light possible. What Mr. Loevy is saying I should be  
03:42:44 24 able to bring out that at the time he was a defendant in the  
03:42:46 25 case.

03:42:46 1 MR. NOLAND: Judge, we think that would be  
03:42:48 2 unnecessary. It's pretty clear that Mr. Brannigan, it will  
03:42:51 3 come out, he was on the task force with Mr. Murphy and  
03:42:54 4 Mr. O'Callaghan. It's going to be evident to the jury that  
03:42:56 5 he's with law enforcement, he was on this task force, that's  
03:43:00 6 what he did for years, so the -- to need to create an  
03:43:06 7 additional on top of bias I think for Mr. Brannigan in writing  
03:43:11 8 this letter or motive I think it would be unnecessary. I  
03:43:13 9 think the jury -- the already there. It's evident that he  
03:43:17 10 worked with these gentlemen on this task force for years and  
03:43:20 11 so I just don't think it's necessary. I think under Rule 403,  
03:43:25 12 it would not be appropriate.

03:43:29 13 MR. KULWIN: Judge, if I may. As Mr. Noland pointed  
03:43:32 14 out, you're caught in the Hobson's choice. If you don't bring  
03:43:35 15 the letter out, your witness is getting hammered, didn't you  
03:43:39 16 write this letter, it's going to make him look biased. He  
03:43:42 17 really had no choice but to bring it out. It seems far more  
03:43:45 18 prejudicial, I know he said 403, but it's far more to  
03:43:49 19 prejudicial to suddenly say you were a party in this case  
03:43:52 20 okay. That's going to confuse the jury. What do you mean he  
03:43:55 21 is a party in this case, did he settle for millions, did he  
03:43:58 22 settle for ten cents, how did he get out, did the court throw  
03:44:02 23 it out, it may cut against the plaintiff but it may cut  
03:44:06 24 against the defendant. One thing it will do for sure is  
03:44:09 25 inject an unnecessary issue. I think Mr. Noland is right. He

03:44:12 1 can make the point.

03:44:13 2 THE COURT: Thanks. Mr. Loevy, last word.

03:44:15 3 MR. LOEVY: Your Honor, we weren't going to go into  
03:44:16 4 the letter for obvious reasons. The letter is terrible for  
03:44:19 5 us. Mr. Noland feeds our argument. A guy who is in the task  
03:44:22 6 force, is working in the trenches, this is absolutely how you  
03:44:25 7 pay back a cooperator. You have a moral obligation to do it.  
03:44:29 8 It legitimizes what Mr. O'Callaghan did. If he thought, I  
03:44:33 9 tried to object, he kept doing it more, and there is no  
03:44:35 10 argument, no inference, nothing this evidence was put in for  
03:44:40 11 other than to say any police officer would have done the same  
03:44:43 12 thing because of a moral obligation. There is no prejudice to  
03:44:46 13 saying isn't it true that at the time you wrote this letter,  
03:44:51 14 you were a party to this case. In fact, it probably should be  
03:44:54 15 brought out anyway because it shows his bias. There is no  
03:44:56 16 unfair prejudice and there would be a ton of unfair prejudice,  
03:45:00 17 we spent so much time saying to O'Callaghan, this is an  
03:45:02 18 extraordinary letter you wrote, you only wrote it because you  
03:45:05 19 were a defendant. They have opened the door.

03:45:07 20 THE COURT: Thank you. Here is the ruling. Here is  
03:45:09 21 what you can do, here is what you can't do.

03:45:12 22 You can elicit -- Mr. Brannigan is listening which is  
03:45:15 23 a good thing. You can elicit from Mr. Brannigan, isn't it a  
03:45:18 24 fact that when you wrote that letter, you understood that your  
03:45:21 25 conduct in this case was under question, too, period. That's

03:45:24 1 it, you can't bring out he is a party. The reason you can't  
03:45:27 2 bring out he was a party is that it gets us down into a rabbit  
03:45:31 3 hole as to why is he no longer a party and that can't be  
03:45:34 4 explained in any way that's understandable and would take a  
03:45:38 5 limited amount of time, so that's what I'm letting you do.  
03:45:43 6 Does everybody understand?

03:45:44 7 MR. LOEVY: Yes, your Honor.

03:45:45 8 MR. KULWIN: Yes. And he heard --

03:45:47 9 THE COURT: He heard it. I am glad he was here.

03:45:50 10 MR. KULWIN: He had as a hearing issue, Judge.

03:45:51 11 THE COURT: Go over with him, Mr. Noland, so he  
03:45:55 12 knows.

03:45:55 13 (Short break.)

03:53:17 14 THE COURT: Okay. What is it that you need to bring  
03:53:19 15 up.

03:53:19 16 MR. LOEVY: Your Honor, our understanding was the  
03:53:21 17 curative instruction was supposed to give the jury the  
03:53:23 18 impression.

03:53:24 19 THE COURT: Curative question.

03:53:25 20 MR. LOEVY: The curative question was your conduct in  
03:53:28 21 this case was under question too at the time you wrote the  
03:53:31 22 letter and Mr. Noland just told me he is going to say no,  
03:53:34 23 that's not true.

03:53:34 24 THE COURT: And?

03:53:35 25 MR. NOLAND: We were asking him to ask the question

03:53:37 1 in April 2014 his conduct was under question.

03:53:44 2 MR. LOEVY: The issue has to be when he wrote the  
03:53:46 3 letter.

03:53:46 4 THE COURT: What's the date on the letter?

03:53:48 5 MR. NOLAND: July 6.

03:53:52 6 MR. LOEVY: July 6.

03:53:53 7 MR. NOLAND: July 6.

03:53:54 8 MR. KULWIN: 2014.

03:53:56 9 THE COURT: And what's your point?

03:53:58 10 MR. KULWIN: The new trial, he had been found not  
03:54:01 11 liable, but the new trial wasn't granted.

03:54:03 12 THE COURT: A motion for new trial had been found?

03:54:05 13 MR. KULWIN: It had, but it hadn't been granted.

03:54:09 14 THE COURT: Are you going to split that hair with me?

03:54:11 15 MR. NOLAND: Gotcha.

03:54:12 16 THE COURT: Seriously. If everybody wants to go  
03:54:14 17 through the whole history of that and then we can start this  
03:54:17 18 over next Monday with a new jury, that would be lovely, but,  
03:54:21 19 no.

03:54:22 20 MR. NOLAND: I just want to know the question he  
03:54:26 21 needs to answer.

03:54:27 22 THE COURT: The answer needs to be yes. And honestly  
03:54:30 23 it is factually true because his conduct is still under  
03:54:35 24 question at any time before the case goes up on appeal.

03:55:43 25 (The jury enters the courtroom.)

03:55:43 1 THE COURT: Mr. Brannigan is on his way backup.

03:55:46 2 Everybody can have a seat. Mr. Loevy, you can go ahead.

03:55:49 3 - - -

03:55:49 4 DANIEL BRANNIGAN, CROSS-EXAMINATION

03:55:49 5 BY MR. LOEVY:

03:55:51 6 Q. Mr. Brannigan, you were asked a number of questions about  
03:55:53 7 that letter you wrote for Earl Hawkins, correct?

03:55:55 8 A. Correct.

03:55:56 9 Q. Isn't it true, though, sir, at the time that you wrote  
03:55:59 10 that letter, your conduct in this case was under question too,  
03:56:05 11 correct, this civil case?

03:56:06 12 A. Correct.

03:56:06 13 Q. And at the time you wrote that letter, you had  
03:56:15 14 conversations with Mr. O'Callaghan about it?

03:56:16 15 A. I don't know. I'll guess yes, but I do not know that.

03:56:24 16 Q. You knew he was writing a letter for Earl too, right?

03:56:27 17 A. I knew it was requested that he write a letter for Earl.

03:56:31 18 Q. And you didn't write a letter for Earl in 2008, 2009,  
03:56:35 19 2011, right?

03:56:36 20 A. Correct, I wasn't asked to.

03:56:40 21 MR. LOEVY: Objection, your Honor. We ask that be  
03:56:44 22 stricken after yes.

03:56:44 23 THE COURT: I am going to overrule it. Just give  
03:56:46 24 responsive answers to the questions.

03:56:48 25 THE WITNESS: Yes, sir.

03:56:49 1 BY MR. LOEVY:

03:56:49 2 Q. All right. Let's back up.

03:56:50 3 You said Mr. Sumner gave you indications that he was  
03:56:53 4 going to cooperate when he got apprehended, correct?

03:56:56 5 A. After speaking to him a couple of times, yes, sir.

03:57:00 6 Q. All right. Would you agree that people in Mr. Sumner's  
03:57:03 7 situations are generally not inclined to implicate their  
03:57:07 8 colleagues in crimes, right?

03:57:09 9 A. He certainly was.

03:57:11 10 Q. All right. He was free to leave, you said?

03:57:13 11 A. Absolutely. He wasn't free to leave at that time, we  
03:57:18 12 didn't know if he was -- had in any outstanding warrants on  
03:57:23 13 him or if anybody had any outstanding warrants.

03:57:27 14 Q. But you did establish pretty quickly he was free to leave?

03:57:30 15 A. No.

03:57:31 16 Q. At some point he was free to leave?

03:57:32 17 A. Yes. I don't know when his fingerprints cleared.  
03:57:37 18 Everybody was getting their prints taken.

03:57:39 19 Q. All right. Once his prints cleared -- once his prints  
03:57:45 20 cleared, he was free to leave?

03:57:47 21 A. Once his prints were cleared, yes.

03:57:49 22 Q. How did you incentivize Mr. Sumner to make a whole bunch  
03:57:54 23 of cases against El Rukns if he was clear to leave?

03:57:56 24 MR. NOLAND: Objection. Assumes facts not in  
03:57:58 25 evidence.



03:58:00 1 THE COURT: Sustained to the form of the question.

03:58:02 2 BY MR. LOEVY:

03:58:03 3 Q. Let's just keep it simple. How did you incentivize

03:58:06 4 Mr. Sumner to make a whole bunch of cases against a whole

03:58:08 5 bunch of El Rukns?

03:58:09 6 MR. NOLAND: That's the same -- objection.

03:58:10 7 THE COURT: Yeah. It assumes facts not in evidence.

03:58:13 8 BY MR. LOEVY:

03:58:14 9 Q. Mr. Sumner did make a whole bunch of cases against a whole

03:58:17 10 bunch of El Rukns, correct?

03:58:18 11 A. Not in east Cleveland, no, sir.

03:58:19 12 Q. At some point he did, correct?

03:58:21 13 A. Later on when we went back to Chicago, yeah.

03:58:24 14 Q. Okay. In Cleveland at a minimum, he implicates El Rukns

03:58:28 15 in that triple homicide?

03:58:29 16 A. That's correct.

03:58:30 17 Q. How did you incentivize Mr. Sumner to tell you, a law

03:58:34 18 enforcement officer, about a triple homicide committed by his

03:58:37 19 colleagues?

03:58:37 20 MR. NOLAND: Objection.

03:58:38 21 THE COURT: That's the part that assumed a fact not

03:58:41 22 in evidence. That's the part I sustained an objection to.

03:58:43 23 MR. LOEVY: All right. I understand.

03:58:45 24 BY MR. LOEVY:

03:58:45 25 Q. Mr. Sumner did implicate his colleagues in the triple



03:58:48 1 homicide, right?

03:58:48 2 A. When we were out in east Cleveland, yes, sir.

03:58:50 3 Q. Okay. While you were out in east Cleveland, how did you  
03:58:54 4 incentivize Mr. Sumner to implicate his colleagues in that  
03:58:57 5 triple homicide?

03:58:58 6 MR. NOLAND: Objection.

03:58:58 7 THE COURT: Sustained.

03:58:59 8 MR. LOEVY: I don't understand.

03:59:01 9 THE COURT: Then I am going to explain it to you at  
03:59:09 10 sidebar.

03:59:11 11 (The following proceedings were had at sidebar outside the  
03:59:11 12 hearing of the jury:)

03:59:11 13 THE COURT: It assumes that he did.

03:59:13 14 MR. LOEVY: I thought he did.

03:59:14 15 THE COURT: It assumes that he incentivized him.

03:59:18 16 MR. LOEVY: Okay.

03:59:21 17 (The following proceedings were had in open court in the  
03:59:21 18 presence and hearing of the jury:)

03:59:21 19 THE COURT: Proceed.

03:59:22 20 BY MR. LOEVY:

03:59:23 21 Q. What was your understanding of why Mr. Sumner was telling  
03:59:26 22 law enforcement that his colleagues had committed this triple  
03:59:29 23 homicide?

03:59:29 24 A. Mr. Sumner was kind of between a rock and a hard place.

03:59:36 25 Mr. Sumner was on the run for something, I didn't know what,

03:59:41 1 he didn't want to go to Africa or Jamaica as he was describing  
03:59:45 2 to me, and he was saying phrases and words to the effect of  
03:59:50 3 I'm sick of all of this, and well, you know, maybe I can help  
03:59:54 4 you. I've been on the run for a couple of weeks or whatever  
03:59:57 5 it was, and those -- that's what I'm referring to when I said  
04:00:01 6 he was making noise about maybe he'll cooperate.

04:00:05 7 Q. All right. The maybe I can help you is the part I was  
04:00:08 8 asking about then. What did you tell him you could do for  
04:00:10 9 him?

04:00:11 10 A. In what sense?

04:00:14 11 Q. Well, helping him.

04:00:17 12 A. If you want to cooperate with us, you will be protected  
04:00:21 13 from them because he voiced a great deal of concern about the  
04:00:25 14 welfare of himself and his family and his children regarding  
04:00:30 15 the El Rukns.

04:00:30 16 Q. Okay. So if he was concerned about it, then why did he  
04:00:35 17 nonetheless do it? Do you understand what I'm asking?

04:00:38 18 A. He did it because apparently he did not want to play with  
04:00:41 19 the El Rukns anymore. He wanted to come to law enforcement.

04:00:45 20 Q. I see?

04:00:46 21 A. It was a big jump for him. Yes, sir, I agree.

04:00:48 22 Q. No violence was used, though, is your testimony, right?

04:00:50 23 A. No, sir. That's not --

04:00:52 24 Q. Putting him in the car on the triple homicide, was he  
04:00:55 25 threatened that if you don't couldn't, we are going to put the

04:00:58 1 murder charge on you?

04:00:58 2 A. No, sir, he was not.

04:01:00 3 Q. Why not? Why isn't that a legitimate interrogation

04:01:05 4 tactic?

04:01:05 5 A. Not one of my interrogation tactics. You catch more flies

04:01:10 6 with honey than you do with vinegar.

04:01:13 7 Q. Describe the events from May 9th, May 10th, May 11th, from

04:01:18 8 1985. Do you have any notes from any of those days?

04:01:21 9 A. No, sir.

04:01:21 10 Q. So when you were saying what happened on May 9th versus

04:01:24 11 May 10th versus May 11th, is there any document that you were

04:01:28 12 referring to?

04:01:28 13 A. For me?

04:01:29 14 Q. Yes.

04:01:30 15 A. No.

04:01:31 16 Q. Any report that you've seen that describes what happened

04:01:34 17 on May 10th versus 9th versus 11?

04:01:38 18 A. If there is, I can't remember, but I didn't prepare any.

04:01:40 19 Q. So all the testimony that you gave on direct about what

04:01:43 20 happened on May 9th, May 10th, May 11, that was all from

04:01:46 21 memory 31 years ago?

04:01:48 22 A. No, not from memory from 31 years ago. There was prior

04:01:51 23 testimony to how this all came about.

04:01:53 24 Q. All right. Is it the policy and practice of the police

04:01:57 25 department that there should be notes or reports about what

04:01:59 1 happened on May 9th, May 10th and May 11?

04:02:02 2 A. There was. There was an arrest report prepared by the

04:02:06 3 FBI.

04:02:06 4 Q. Well, there was an arrest report after he was arrested on

04:02:08 5 what day?

04:02:09 6 A. On who now? Who are we talking about?

04:02:13 7 Q. Whoever you were just talking about?

04:02:14 8 MR. NOLAND: Objection, Judge.

04:02:16 9 THE COURT: I think we are talking about Mr. Sumner.

04:02:17 10 MR. LOEVY: Yeah.

04:02:19 11 THE WITNESS: Sumner was not arrested that day.

04:02:22 12 Sumner.

04:02:22 13 BY MR. LOEVY:

04:02:23 14 Q. Then we wouldn't have an arrest report, would we?

04:02:26 15 A. You are absolutely correct. I was confused with walker.

04:02:29 16 There was an arrest report with walker and I am sure there was

04:02:35 17 an FBI 302 prepared on the raid.

04:02:39 18 Q. Back to my question, does the policy of the police

04:02:45 19 department require you to take notes when Anthony Sumner was

04:02:47 20 saying what he was saying in Cleveland?

04:02:47 21 MR. NOLAND: Objection, Judge, vague.

04:02:49 22 THE COURT: Overruled.

04:02:49 23 THE WITNESS: Yes, notes were taken by Detective

04:02:52 24 Smith when he talked about the triple homicide.

04:02:54 25 MR. LOEVY: Objection, your Honor. It was if the

04:02:56 1 policy required it.

04:02:57 2 THE COURT: Does the policy require it?

04:02:59 3 THE WITNESS: Yes.

04:03:00 4 THE COURT: Yes is the answer.

04:03:01 5 THE WITNESS: Yes is the answer.

04:03:02 6 BY MR. LOEVY:

04:03:02 7 Q. Who was Detective Smith?

04:03:03 8 A. Detective Smith was detective from area 3 who was assigned

04:03:07 9 to the triple homicide.

04:03:08 10 Q. And it's your testimony that this Detective Smith took

04:03:10 11 notes on what happened in east Cleveland?

04:03:12 12 A. When he was speaking with Anthony Sumner and Anthony

04:03:16 13 Sumner provided him the information.

04:03:18 14 Q. Okay.

04:03:18 15 A. Regarding the triple homicide.

04:03:20 16 Q. Where are those notes now?

04:03:21 17 A. I don't know where Detective Smith's notes are.

04:03:24 18 Q. Have you ever seen them?

04:03:25 19 A. I am sure I reviewed notes or reports that he generated

04:03:30 20 back then.

04:03:30 21 Q. So it's your understanding the Chicago Police Department

04:03:32 22 has Detective Smith's police reports from this debriefing of

04:03:37 23 Anthony Sumner?

04:03:38 24 A. The debriefing or the -- you're confusing me. The

04:03:46 25 debriefing of Anthony Sumner was conducted in Chicago.

04:03:49 1 Q. All right. Let's not get hung up on the word. You just  
04:03:52 2 said Detective Smith?

04:03:53 3 MR. NOLAND: Objection, your Honor.

04:03:54 4 THE COURT: The objection is overruled.

04:03:55 5 BY MR. LOEVY:

04:03:56 6 Q. Detective Smith took notes of what Sumner was saying in  
04:03:58 7 Cleveland. That's your testimony, right?

04:03:59 8 A. That's what I seem to remember, yes, he took notes and  
04:04:03 9 then he wrote a report because I know I've seen the report.

04:04:07 10 Q. That report should exist, Detective Smith's police report?

04:04:11 11 A. Should exist, sure.

04:04:13 12 Q. When is the last time you've seen it?

04:04:15 13 A. I can't recall.

04:04:15 14 Q. In the last year?

04:04:16 15 A. I can't recall.

04:04:16 16 Q. The last five years?

04:04:17 17 A. I'm telling you, I can't recall.

04:04:19 18 Q. Have you seen it in the last ten years?

04:04:22 19 MR. KULWIN: Judge, objection.

04:04:23 20 THE COURT: Sustained.

04:04:24 21 BY MR. LOEVY:

04:04:24 22 Q. All right. Let's talk about the interrogation. You said  
04:04:27 23 the task force was put together to put cases on the El Rukns  
04:04:31 24 for illegal things. Did I get your testimony correctly?

04:04:36 25 A. I think you're mischaracterizing it.

04:04:38 1 Q. But you did, the task force goal was to arrest as many El  
04:04:42 2 Rukns as possible, can we agree with that?  
04:04:44 3 A. If they committed crimes, yes, sir.  
04:04:46 4 Q. You wanted to basically decapitate the leadership and take  
04:04:49 5 the gang out, that was the objective, correct?  
04:04:51 6 A. Correct, utilizing the federal racketeering statutes.  
04:04:55 7 Q. And Anthony Sumner was the first crack that you had  
04:04:57 8 against the El Rukns, correct?  
04:04:58 9 A. He was the first ranking cooperator we had. We had  
04:05:04 10 several lesser guys that were soldiers or used to be soldiers  
04:05:08 11 in the organization cooperating with us.  
04:05:09 12 Q. And one of the murder cases that he was asked about was  
04:05:13 13 the murder of Smith/Hickman isn't that correct?  
04:05:16 14 MR. NOLAND: Objection, foundation.  
04:05:17 15 THE COURT: You mean when?  
04:05:21 16 MR. NOLAND: Where and when.  
04:05:22 17 THE COURT: Let's get the when.  
04:05:23 18 BY MR. LOEVY:  
04:05:23 19 Q. All right. Did you talk to Anthony Sumner?  
04:05:25 20 THE COURT: About?  
04:05:26 21 BY MR. LOEVY:  
04:05:26 22 Q. About Smith/Hickman?  
04:05:29 23 A. Did I?  
04:05:30 24 Q. Yes?  
04:05:32 25 A. No, sir.

04:05:32 1 Q. Didn't you tell Mr. Noland that you talked to him about  
04:05:37 2 Nathson Fields confessing?

04:05:39 3 MR. NOLAND: Objection, what conversation.

04:05:41 4 MR. LOEVY: Just change it.

04:05:42 5 BY MR. LOEVY:

04:05:42 6 Q. Is that true then what you just said that you never talked  
04:05:45 7 to Anthony Sumner about Smith/Hickman, that's true, right?

04:05:48 8 MR. NOLAND: Objection, foundation.

04:05:48 9 THE COURT: Overruled.

04:05:49 10 THE WITNESS: I don't recall specifically questioning  
04:05:52 11 Anthony Sumner about the Smith/Hickman murders.

04:05:57 12 BY MR. LOEVY:

04:05:57 13 Q. Okay.

04:05:58 14 A. I was present when he was questioned.

04:05:59 15 Q. All right. Isn't it true that one of the crimes Sumner  
04:06:05 16 was asked about was the murder of Smith/Hickman?

04:06:09 17 MR. NOLAND: Objection, foundation as to when.

04:06:11 18 THE COURT: Okay. So now we are back to where we  
04:06:14 19 were. Let's get the when.

04:06:15 20 BY MR. LOEVY:

04:06:15 21 Q. Whenever you're talking about being present, I don't know  
04:06:17 22 when. When was it, sir, when you were present?

04:06:20 23 A. I don't know -- in east Cleveland, Ohio, the only  
04:06:23 24 questions that I remember him being asked and the only thing  
04:06:27 25 he is talking about specifically was Detective Smith and



04:06:32 1 state's attorney wharrie questioned him regarding the triple  
04:06:35 2 homicide.

04:06:35 3 Q. All right. Then I am not talking about that.

04:06:37 4 A. Okay.

04:06:38 5 Q. I am talking about questions about --

04:06:39 6 MR. NOLAND: Objection.

04:06:40 7 BY MR. LOEVY:

04:06:40 8 Q. Smith/Hickman?

04:06:41 9 THE COURT: Mr. Noland have a seat. The objection is  
04:06:45 10 overruled.

04:06:46 11 BY MR. LOEVY:

04:06:46 12 Q. All right. Do you understand I'm asking of Anthony Sumner  
04:06:51 13 Mr. Smith/Hickman. Do you understand that question?

04:06:53 14 A. Correct.

04:06:53 15 Q. Were you present you're saying or you weren't present?

04:06:56 16 A. I was present when he was debriefed in Chicago at 2650  
04:06:56 17 South California on the 13th floor of the gang prosecution  
04:07:02 18 unit.

04:07:02 19 Q. Now back to my question which is: Isn't it true that one  
04:07:05 20 of the murder cases that Sumner was asked about was the murder  
04:07:09 21 of Smith and Hickman, sir?

04:07:10 22 A. Then, yes, correct. I got it now.

04:07:13 23 Q. All right. And by asked about, people said to Anthony  
04:07:17 24 Sumner, do you have information about the Smith/Hickman case  
04:07:21 25 isn't that true, sir?

04:07:22 1 A. He was asked -- I would phrase it -- or paraphrase it, I  
04:07:29 2 would say they were open-ended questions, what case can you  
04:07:32 3 tell us about and he would say, well, I know who shot Charlie  
04:07:36 4 brown over on wherever and then we would -- the questions  
04:07:40 5 would be asked by Murphy or whoever else was questioning him,  
04:07:45 6 tell us about Charlie brown, tell us about whatever else he  
04:07:48 7 brought up.

04:07:48 8 Q. All right. When Sumner was asked about the murder of  
04:07:53 9 Smith/Hickman, can you be sure you were in the room, sir?

04:07:55 10 MR. KULWIN: Objection, Judge.

04:07:56 11 THE COURT: Overruled.

04:08:00 12 BY MR. LOEVY:

04:08:00 13 Q. Can you be sure you were in the room?

04:08:01 14 A. I was in the room for part of it. I might have got up to  
04:08:05 15 get a drink of water, by would have been, yes, sir.

04:08:08 16 Q. Is it fair to say you wouldn't have a specific independent  
04:08:11 17 recollection all these years later because you have no notes?

04:08:14 18 A. Correct.

04:08:14 19 Q. Most of the interrogating, though, was done by Murphy,  
04:08:17 20 right?

04:08:17 21 A. That's correct.

04:08:18 22 Q. And by this time Anthony Sumner was cooperating, correct?

04:08:20 23 A. Correct. Now he's cooperating, we're in Chicago at the  
04:08:25 24 gang office.

04:08:26 25 Q. And at this point he's implicating a lot of his former

04:08:30 1 colleagues this crimes, correct?

04:08:31 2 A. Correct.

04:08:31 3 Q. And he's helping the law enforcement people make a lot of  
04:08:34 4 cases, right?

04:08:35 5 A. He's just providing information now and hopefully they'll  
04:08:39 6 develop into the cases, yes, sir.

04:08:40 7 Q. And at this point, he's trying to get a deal for himself,  
04:08:44 8 correct?

04:08:45 9 A. Of course.

04:08:45 10 Q. So he is not just providing this to help the law  
04:08:48 11 enforcement, right?

04:08:48 12 A. No, he is -- there's something up his sleeve, we know  
04:08:52 13 that. He's already implicated himself in one of the murders.

04:08:54 14 Q. And at this point, it was communicated to Anthony Sumner  
04:08:58 15 that if you're going to get our help from law enforcement with  
04:09:01 16 your criminal problems, we need you to make as many cases  
04:09:04 17 against as many people, would you agree with that?

04:09:06 18 A. Yes, sir, and they all know that. The more information  
04:09:09 19 they have, the better off they are.

04:09:11 20 Q. All right. You said that Sumner named four shooters, but  
04:09:15 21 you're not positive you were in the room when Sumner named  
04:09:17 22 four shooters, correct?

04:09:18 23 MR. KULWIN: Objection, argumentative, Judge.

04:09:20 24 THE COURT: Overruled.

04:09:21 25 THE WITNESS: I don't remember saying I was or

04:09:24 1 wasn't. At this point in time, though, I can't remember was I  
04:09:29 2 there that minute, no.  
04:09:30 3 BY MR. LOEVY:  
04:09:30 4 Q. That's what I'm asking?  
04:09:31 5 A. Independent recollection, no, just reviewing the GPRs and  
04:09:34 6 everything from that day. I remember that day.  
04:09:37 7 Q. All right. But you have no notes of this particular  
04:09:39 8 conversation when Anthony Sumner supposedly said Nate did it,  
04:09:43 9 you have no notes of that, right?  
04:09:44 10 A. No, sir, I wasn't the note taker.  
04:09:46 11 Q. And this business that Sumner at some point said Nate said  
04:09:55 12 it was a good exercise, you didn't take any notes on that,  
04:09:57 13 correct?  
04:09:57 14 A. I wasn't questioning him, correct.  
04:09:59 15 Q. And you have -- you have no memory if you were in the room  
04:10:02 16 or not in the room for that part either, right?  
04:10:05 17 A. I couldn't tell you when I might have stepped out of the  
04:10:08 18 room for a drink of water, go to the bathroom, I don't know.  
04:10:13 19 It's a long time ago, 32 years ago, I believe.  
04:10:16 20 Q. But you could tell us if you had notes of the  
04:10:19 21 conversation, right?  
04:10:20 22 A. I am not the taker of the notes. You don't want 25 people  
04:10:25 23 taking notes. I am there to assist the detectives with  
04:10:29 24 nicknames, addresses, background on the gang itself.  
04:10:33 25 Q. So since you don't remember if you were present when

04:10:37 1 Sumner said that Nate was the shooter or that Nate confessed,  
04:10:40 2 you don't know exactly what point that got into the story  
04:10:43 3 isn't that fair to say also?

04:10:44 4 MR. NOLAND: Objection, argumentative.

04:10:45 5 THE COURT: Overruled.

04:10:47 6 THE WITNESS: It got in there that day because I  
04:10:51 7 remember reviewing everything that day.

04:10:52 8 BY MR. LOEVY:

04:10:53 9 Q. Did you see something in writing on May the 14th, 1985,  
04:10:56 10 that had all that in writing?

04:10:57 11 A. I saw a number of notes and GPRs that day, yes, sir.

04:11:02 12 Q. Can you describe any with more particularity, like what  
04:11:06 13 are you talking about?

04:11:07 14 A. Notes and GPRs. There was some legal pads, I remember  
04:11:11 15 some of the state's attorneys and other people had legal pads  
04:11:17 16 out.

04:11:17 17 Q. So there should -- how about just focus on the Chicago  
04:11:20 18 Police Department. There should be something written down by  
04:11:23 19 some member of the Chicago Police Department that this  
04:11:25 20 happened?

04:11:25 21 A. Yes, sir.

04:11:26 22 Q. Who would have been taking those notes?

04:11:29 23 A. That would probably have been Murphy. That would have  
04:11:31 24 been Murphy. Not probably. It would have been Murphy.

04:11:35 25 Q. You said you have been investigating the El Rukns since

04:11:37 1 the '70s, correct?

04:11:38 2 A. Yes, sir.

04:11:38 3 Q. And you have had contacts over the years with Hawkins and  
04:11:41 4 with Sumner, right?

04:11:42 5 A. That's right.

04:11:42 6 Q. But you had absolutely no contact with Nate Fields; isn't  
04:11:42 7 that correct?

04:11:46 8 A. I remember absolutely no contact. He must have been  
04:11:51 9 somewhere else.

04:11:51 10 MR. LOEVY: Objection, your Honor.

04:11:52 11 THE COURT: The he must have been somewhere else is  
04:11:54 12 stricken. The jury is directed to disregard it. It's not  
04:11:57 13 responsive to the question.

04:11:58 14 BY MR. LOEVY:

04:11:59 15 Q. All right. Sumner was put in front of a grand jury three  
04:12:02 16 or four days after the raid, correct?

04:12:03 17 A. Yeah, okay, yeah, it was the day we came back I think he  
04:12:11 18 went -- he went to the grand jury, yes, sir.

04:12:13 19 Q. One of the reasons you put a witness before the grand jury  
04:12:16 20 is to lock in their testimony, correct?

04:12:17 21 A. That's correct.

04:12:18 22 Q. And that way they can't change it later, correct?

04:12:21 23 A. That's correct.

04:12:22 24 Q. Now, when Sumner was put before the grand jury, did he  
04:12:25 25 lock in testimony that Nate Fields was one of the shooters,

04:12:29 1 yes or no, sir?

04:12:29 2 A. I can't remember.

04:12:30 3 Q. Okay. Did he lock in testimony that Nate said it was a  
04:12:34 4 good exercise before the grand jury?

04:12:35 5 A. Show me, if you have a document from the grand jury, that  
04:12:40 6 would help. As we sit here right now, I just can't remember  
04:12:43 7 what he said in the grand jury. I am drawing a blank.

04:12:45 8 Q. All right. Is it your understanding that he would have  
04:12:47 9 said that it was a good exercise or that Nate was done it?

04:12:51 10 MR. KULWIN: Objection, argumentative, calls --

04:12:52 11 THE COURT: No, it's neither of those but form of the  
04:12:55 12 question.

04:12:56 13 BY MR. LOEVY:

04:12:57 14 Q. Isn't it true that Sumner didn't say anything about Nate  
04:13:00 15 Fields at that time, sir?

04:13:01 16 THE COURT: What's at that time? The grand jury?

04:13:04 17 MR. LOEVY: Yes, the grand jury.

04:13:07 18 THE WITNESS: Regarding what case? I am getting a  
04:13:09 19 little confused.

04:13:11 20 BY MR. LOEVY:

04:13:11 21 Q. Any case?

04:13:13 22 MR. KULWIN: Objection, Judge, any case is not  
04:13:15 23 germane.

04:13:15 24 THE COURT: Overruled.

04:13:16 25 THE WITNESS: He only spoke of the first day in the

04:13:18 1 grand jury, if my recollection serves me, because it serves me  
04:13:22 2 correct because he only spoke of the triple homicide that we  
04:13:26 3 went out to east Cleveland for.

04:13:29 4 BY MR. LOEVY:

04:13:30 5 Q. My question was he didn't say anything about Nate Fields,  
04:13:33 6 correct?

04:13:33 7 MR. NOLAND: Objection.

04:13:33 8 MR. KULWIN: Objection, foundation, argumentative.

04:13:35 9 MR. LOEVY: Your Honor --

04:13:35 10 THE COURT: It's neither of those. The objection is  
04:13:38 11 overruled.

04:13:39 12 THE WITNESS: I don't know what all he said in the  
04:13:42 13 grand jury. My understanding was it was only about the triple  
04:13:44 14 from east Cleveland that we went out to east Cleveland, Ohio  
04:13:50 15 on.

04:13:50 16 BY MR. LOEVY:

04:13:51 17 Q. You said that. I am asking a different question. He  
04:13:53 18 didn't mention Nate Fields?

04:13:56 19 A. At the triple?

04:13:57 20 Q. At the grand jury when he was having his story locked in,  
04:13:59 21 he did not mention Nate Fields, correct?

04:14:01 22 A. On the triple, no, he did not talk about Nate Fields.

04:14:06 23 Q. All right. You said there was a big raid on May 18th  
04:14:09 24 after Sumner had said what he said, correct?

04:14:11 25 A. Correct, a series of raids, yes, sir.



04:14:14 1 Q. And a number of locations were investigated by law  
04:14:17 2 enforcement, correct?  
04:14:18 3 A. That's correct.  
04:14:18 4 Q. A very wide net was cast on El Rukns, correct?  
04:14:22 5 A. That's correct.  
04:14:23 6 Q. And basically, all of the top leadership of the gang was  
04:14:26 7 under arrest or at least a lot of it, correct?  
04:14:30 8 A. No.  
04:14:31 9 Q. Well, you said there were hundreds of law enforcement out  
04:14:34 10 arresting people, correct?  
04:14:35 11 A. That's correct.  
04:14:36 12 Q. Now, your Honor asked about your efforts to find Nate  
04:14:39 13 Fields. You weren't specifically looking for Nate when you  
04:14:43 14 went back three, four times, were you?  
04:14:46 15 THE COURT: Went back where?  
04:14:47 16 MR. LOEVY: Let me set a better thing.  
04:14:49 17 BY MR. LOEVY:  
04:14:49 18 Q. Nate was not arrested in the first round, right?  
04:14:52 19 A. That's correct.  
04:14:52 20 Q. All right. And then there were subsequent, you said you  
04:14:55 21 went two or three or four more times looking for people,  
04:14:58 22 correct?  
04:14:58 23 A. That's correct.  
04:14:58 24 Q. But you weren't saying I'm going to go out and look for  
04:15:02 25 Nate Fields, you were looking for anybody who wasn't arrested

04:15:05 1 in the first waive is that accurate?

04:15:06 2 A. That's correct, I wasn't focused on him. I was focused on  
04:15:09 3 anybody who was still wanted.

04:15:10 4 Q. All right. That's just what I was trying to establish.

04:15:13 5 So as far as the three or four times you claim you  
04:15:16 6 went out, are there any documents on that, sir?

04:15:18 7 A. No, sir.

04:15:19 8 Q. Are there any notes?

04:15:21 9 A. No, sir.

04:15:22 10 Q. Are there any reports?

04:15:23 11 A. No, you know, I don't do it. No reports are made when you  
04:15:28 12 go somewhere and there is nobody there.

04:15:29 13 Q. Wouldn't you want to have a record of where you went, who  
04:15:33 14 you looked for, who you found, isn't the Chicago Police  
04:15:35 15 Department required to make those kind of records?

04:15:37 16 A. No, we had a list of all the players and their addresses  
04:15:41 17 or best addresses and photographs and copies, hard copies of  
04:15:48 18 the arrest warrants and that's what you worked off.

04:15:50 19 Q. Would it be fair to say that the only proof that you had  
04:15:53 20 that you went back to that address more than once is your own  
04:15:56 21 memory, that's accurate, correct?

04:15:58 22 A. That's correct.

04:15:58 23 Q. You said that there was a federal warrant. Do you  
04:16:01 24 remember that question with Mr. Noland?

04:16:02 25 A. That's correct.

04:16:02 1 Q. Isn't it true that warrant was never issued, sir?

04:16:05 2 A. That's correct, in the end, it was never issued.

04:16:09 3 Q. All right. Did you go to Robbins looking for Mr. Fields?

04:16:13 4 A. I don't think I went to Robbins. I know my partner did,

04:16:18 5 though.

04:16:18 6 Q. Showing -- were you there when your partner did, sir?

04:16:22 7 A. No, he advised me that he did.

04:16:24 8 Q. Did you have a report of that?

04:16:25 9 A. There wouldn't be a need for a report.

04:16:27 10 Q. Do you have a report for that, sir?

04:16:29 11 A. No, I do not. I just told you no need for it. No notes.

04:16:33 12 Q. You just happen to remember my partner went to Robbins?

04:16:35 13 A. There's been many, many proceedings in this case and other

04:16:38 14 El Rukn cases over the years, dozens of proceedings.

04:16:42 15 Q. All right. Plaintiff's Exhibit 62. This is the warrant

04:16:46 16 for Nate Fields that was issued on the 17th of May, correct?

04:16:50 17 A. Yes, sir.

04:16:50 18 Q. All right. Tell the jury what the warrant was issued for

04:16:53 19 on the 17th of May under your name?

04:16:54 20 A. Vaughn and White.

04:17:00 21 Q. Do you have any proof in writing that you were looking for

04:17:03 22 Fields on Smith/Hickman after Sumner got arrested and said

04:17:07 23 what he said? By proof, I mean something written down.

04:17:10 24 A. No, those files are all gone. They're just arrest

04:17:15 25 packets.

04:17:15 1 Q. What files are all gone?

04:17:19 2 A. The arrest packets that were made. Whatever case --  
04:17:21 3 whatever arrest warrant was out there like that hard copy you  
04:17:24 4 just saw.

04:17:25 5 Q. Yeah.

04:17:26 6 A. For Nathson Fields, okay, they were made and passed out to  
04:17:31 7 all kinds of people and then there was a big like master list  
04:17:36 8 or something of all these character.

04:17:38 9 Q. I want to get back to my question. My question is is  
04:17:41 10 there anything in writing on an actual piece of paper, a  
04:17:47 11 document that verifies that as of May 17th you were looking  
04:17:51 12 for Nate on anything other than Vaughn/White? Do you have a  
04:17:53 13 piece of paper?

04:17:54 14 A. No, that's what the arrest warrant says.

04:17:56 15 Q. That's what the arrest warrant says. I'm asking a  
04:17:59 16 different question. Are you aware of any piece of paper in  
04:18:02 17 existence that corroborates your claim that Nate Fields as of  
04:18:07 18 May 17th was wanted for anything other than Vaughn and White?

04:18:11 19 A. There was the interview -- the notes and everything from  
04:18:15 20 the other cases.

04:18:18 21 Q. What notes?

04:18:18 22 A. The notes from the debriefing, rather, of Anthony Sumner.

04:18:23 23 Q. Your notes?

04:18:25 24 MR. KULWIN: Objection, asked and answered.

04:18:26 25 THE COURT: Sustained.

04:18:28 1 BY MR. LOEVY:

04:18:32 2 Q. You were asked if Earl was given promises to get out of  
04:18:38 3 jail, side promises. Do you remember those questions?

04:18:40 4 A. Earl Hawkins when?

04:18:43 5 Q. You were asked would it be improper if Earl was given  
04:18:46 6 assurances he'd get out sooner than his out date. Do you  
04:18:50 7 remember counsel asking you those questions?

04:18:51 8 A. I don't remember exactly how he said it, no.

04:18:54 9 Q. All right. It would be improper if Earl was given  
04:18:57 10 assurances he was going to get out sooner than he was  
04:18:59 11 representing in court that he was going to get out, correct?

04:19:02 12 A. I can't funnel this.

04:19:05 13 Q. Would it have been improper if the detectives had told  
04:19:09 14 Earl the papers say you're getting out in 2027, but we have an  
04:19:13 15 understanding you're going to get out sooner, that would be  
04:19:15 16 improper?

04:19:16 17 A. That would be improper if someone told him that, yeah.

04:19:19 18 Q. And you have no knowledge as to whether he was told that  
04:19:21 19 or not, right?

04:19:21 20 A. That's correct.

04:19:22 21 Q. And you told Hawkins that cooperating was not a get out of  
04:19:26 22 jail free card, was that the word you used?

04:19:28 23 A. No, sir.

04:19:29 24 Q. You didn't use the expression?

04:19:31 25 A. No, that Earl Hawkins wanted a get out of jail free card.

04:19:38 1 They all want a get out of jail free card.

04:19:43 2 Q. He did get?

04:19:45 3 MR. NOLAND: Objection.

04:19:46 4 MR. KULWIN: Objection.

04:19:46 5 THE COURT: Sustained.

04:19:47 6 BY MR. LOEVY:

04:19:48 7 Q. The last thing I want to talk about is the Vaughn/White  
04:19:51 8 crime. You said you found Sumner reliable because he put  
04:19:54 9 himself in the Vaughn/White crime?

04:19:55 10 A. That was one of the things that made him believable, yes,  
04:19:58 11 sir.

04:19:58 12 Q. Sumner did not put himself in the Smith/Hickman crime that  
04:20:00 13 he was accusing Nate of, correct?

04:20:04 14 A. No, sir.

04:20:05 15 Q. He said I heard from other people that other people did  
04:20:07 16 it, right?

04:20:08 17 A. Correct.

04:20:08 18 Q. Hawkins, two guys from Evanston, and my landlord were the  
04:20:12 19 guys he eventually --

04:20:14 20 MR. KULWIN: Objection, Judge, to landlord.

04:20:15 21 THE COURT: Sustained. Rephrase the question.

04:20:19 22 BY MR. LOEVY:

04:20:19 23 Q. Did Hawkins -- I'm sorry. At any time did Sumner ever  
04:20:22 24 tell you that he was part of a team that got in a car with  
04:20:25 25 guns to go kill Fuddy?

04:20:26 1 A. Sumner told me a number of cases he was out --

04:20:31 2 Q. I'm talking about this one, sir.

04:20:33 3 A. I can't remember if that one. It wouldn't surprise me if

04:20:36 4 he did. They were always out stalking somebody. That was

04:20:38 5 their term.

04:20:39 6 Q. Back to my question, did Sumner ever tell you that about

04:20:42 7 this case?

04:20:43 8 A. He may have. I don't recall right now.

04:20:45 9 Q. If he had, would you have written it down?

04:20:48 10 A. No, not necessarily. No I wasn't questioning him.

04:20:52 11 MR. KULWIN:

04:20:54 12 BY MR. LOEVY:

04:20:54 13 Q. When Nate went to trial, the man pointing the finger at

04:20:57 14 him, Anthony Sumner, was saying I'm disinterested?

04:21:01 15 MR. KULWIN: Judge, I object. He didn't say that. I

04:21:04 16 object. It's argumentative.

04:21:05 17 MR. NOLAND: Objection.

04:21:06 18 THE COURT: Rephrase the question.

04:21:07 19 BY MR. LOEVY:

04:21:08 20 Q. All right. You do have an understanding that at trial,

04:21:10 21 Sumner said I wasn't involved in this crime and I'm just

04:21:14 22 saying who did it, right?

04:21:15 23 MR. KULWIN: I am going to object, Judge.

04:21:16 24 BY MR. LOEVY:

04:21:16 25 Q. That was the gist of it?

04:21:17 1 MR. KULWIN: Misstates the testimony. He can read  
04:21:22 2 it.

04:21:22 3 THE COURT: Overruled.

04:21:25 4 THE WITNESS: Back it up, coach. Back it up, sir.

04:21:28 5 BY MR. LOEVY:

04:21:28 6 Q. The theory of the state's case was Sumner was saying I am  
04:21:31 7 not -- I have nothing to do with this case, but I can tell you  
04:21:34 8 who confessed to me, right?

04:21:35 9 MR. KULWIN: I am going to object, Judge,  
04:21:38 10 argumentative.

04:21:39 11 THE COURT: Overruled. My suggestion would be rather  
04:21:41 12 than talking about this case, that case, you talk about what  
04:21:43 13 case.

04:21:44 14 MR. LOEVY: I am talking about Smith/Hickman.

04:21:45 15 THE COURT: Put that in your question.

04:21:46 16 MR. LOEVY: Got it.

04:21:47 17 BY MR. LOEVY:

04:21:47 18 Q. In Smith/Hickman, I'm sorry, if it wasn't clear, the  
04:21:53 19 theory of the case in Smith/Hickman was Sumner was supposedly  
04:21:57 20 not involved but he was saying that other people confessed to  
04:22:00 21 him, right?

04:22:00 22 MR. KULWIN: Objection, lack of foundation.

04:22:02 23 THE COURT: Overruled.

04:22:03 24 THE WITNESS: I don't remember the whole theory of  
04:22:04 25 the case.



04:22:04 1 THE COURT: He is just asking what Sumner said.

04:22:06 2 THE WITNESS: I don't remember what Sumner said. How

04:22:08 3 is that?

04:22:09 4 BY MR. LOEVY:

04:22:09 5 Q. Do you remember if Sumner said he was involved, wasn't

04:22:12 6 involved, do you remember that?

04:22:12 7 A. I don't remember that as I sit here now.

04:22:15 8 Q. Let's talk about Vaughn/White. Sumner did tell you that

04:22:17 9 Nate was involved in the Vaughn/White murder, correct?

04:22:19 10 A. I remember that, yes, sir.

04:22:20 11 Q. Was he convincing? Did you believe him?

04:22:23 12 A. Did I believe him, I believed everything that Anthony was

04:22:28 13 saying at that time. Again, he just --

04:22:30 14 Q. That's an answer?

04:22:31 15 A. --

04:22:33 16 Q. When Anthony Sumner told you the story about how he?

04:22:36 17 MR. KULWIN: Object to story.

04:22:37 18 MR. LOEVY: It was a story, wasn't it, sir.

04:22:39 19 MR. KULWIN: Objection, Judge.

04:22:44 20 THE COURT: Everybody come over here.

04:22:49 21 (The following proceedings were had at sidebar outside the

04:22:51 22 hearing of the jury:)

04:22:51 23 THE COURT: Everybody stand over there. Everybody

04:22:55 24 stand over there. Okay. At this point, I am regarding the

04:22:59 25 objections to at least two out of three questions as an effort

04:23:03 1 to obstruct the cross. Okay. That's a warning.

04:23:14 2 (The following proceedings were had in open court in the  
04:23:15 3 presence and hearing of the jury:)

04:23:15 4 THE COURT: The objection is overruled. You can  
04:23:16 5 reput the question.

04:23:17 6 MR. LOEVY: Thank you.

04:23:20 7 BY MR. LOEVY:

04:23:20 8 Q. When Anthony Sumner told you this story about how Nate and  
04:23:23 9 Earl and he killed the Vaughn/White couple, did you believe  
04:23:27 10 him? Let's start with yes, no, did you believe him?

04:23:30 11 A. I don't know what you mean by story. Are we talking the  
04:23:34 12 debriefing? Is that what we're referring to, during that time  
04:23:37 13 period?

04:23:38 14 Q. I'll backup.

04:23:39 15 Did Anthony Sumner tell you that he, Nate, and Earl  
04:23:43 16 killed Joe White and Dee Eggars Vaughn?

04:23:46 17 A. He said that in his debriefings yes.

04:23:50 18 Q. Then that's what I'm talking about.

04:23:52 19 A. Okay.

04:23:52 20 Q. And you heard it, right?

04:23:54 21 A. Yes.

04:23:54 22 Q. When Anthony Sumner told you that story in the debriefings  
04:23:57 23 that Nate and he and Hawkins had stabbed and murdered that  
04:24:04 24 couple, did you believe Anthony Sumner?

04:24:05 25 A. I had no reason to disbelieve him. Yes, I did believe

04:24:08 1 him.

04:24:08 2 Q. Did you later learn that he was lying, right?

04:24:10 3 A. That's correct.

04:24:11 4 Q. And did you later learn what his motive was for lying to

04:24:15 5 you?

04:24:15 6 A. Yes, sir.

04:24:15 7 Q. What was his motive?

04:24:17 8 A. He said that he didn't like Nathson Fields, Nathson Fields

04:24:22 9 had thrown his family out of the building they were living in.

04:24:27 10 I believe it was 64 -- yeah, it was 6416 south Kenwood, the

04:24:31 11 African Hut.

04:24:33 12 Q. In your line of work, you meet people who tell the truth

04:24:36 13 and people who lie, right?

04:24:37 14 A. That's correct.

04:24:38 15 Q. And did you get pretty good at being able to tell the

04:24:41 16 difference?

04:24:41 17 A. I don't know how good I got, but sometimes I could read

04:24:46 18 people right and sometimes I was really surprised.

04:24:49 19 Q. And when Nate -- when Anthony Sumner told you that story

04:24:53 20 about how Nate supposedly helped stab and shoot that couple,

04:24:58 21 he had you going, didn't he?

04:24:59 22 A. Yes, sir, he did.

04:25:00 23 Q. He was a convincing liar, wasn't he?

04:25:02 24 A. At that time, yes, sir, he was. I believed him.

04:25:06 25 MR. LOEVY: I have no further yes, sir, your Honor.

04:25:08 1 THE COURT: Redirect.

04:25:09 2 - - -

04:25:09 3 DANIEL BRANNIGAN, REDIRECT EXAMINATION

04:25:09 4 BY MR. NOLAND:

04:25:12 5 Q. Mr. Brannigan, you also understood at the same time that

04:25:16 6 Sumner acknowledged lying about Mr. Fields about Vaughn and

04:25:21 7 White that he reaffirmed that Mr. Fields was involved in the

04:25:24 8 Smith/Hickman case; is that true?

04:25:26 9 MR. LOEVY: Objection, leading, your Honor.

04:25:26 10 THE COURT: Sustained to leading.

04:25:27 11 BY MR. NOLAND:

04:25:28 12 Q. Did you learn what Mr. Sumner was saying about Smith and

04:25:32 13 Hickman and Mr. Fields at the same time he was acknowledging

04:25:35 14 about Vaughn and White?

04:25:36 15 A. Yes, sir, I did.

04:25:37 16 Q. What did you learn in that respect?

04:25:38 17 A. I learned that Nate was -- Nate was one of the two

04:25:41 18 shooters, was still -- he didn't change that.

04:25:44 19 Q. Mr. Loevy asked you some questions about some phrases from

04:25:48 20 May 14th, 1985. One of them was stalking. Do you recall that

04:25:52 21 term used on that day?

04:25:54 22 A. I recall that was the first time I had heard it in that --

04:25:58 23 you know, you stalk a deer, but we all know about stalking

04:26:02 24 people now. That's the first time I heard it from the El

04:26:07 25 Rukns, that that was their term for surveillances or following

04:26:10 1 someone around before they whacked them or killed them.

04:26:13 2 Q. And did that term -- did that stick in your mind from that  
04:26:17 3 day?

04:26:17 4 A. Yes, sir, it did.

04:26:18 5 Q. You heard the term about the terms good exercise that day  
04:26:23 6 as well, correct?

04:26:24 7 A. Yes.

04:26:24 8 MR. LOEVY: Objection, leading, your Honor.

04:26:25 9 THE COURT: Overruled to the preliminary question,  
04:26:27 10 but not beyond that.

04:26:28 11 BY MR. NOLAND:

04:26:28 12 Q. Did that term stick in your mind?

04:26:30 13 A. Yes, sir, it did.

04:26:31 14 Q. Why is that?

04:26:32 15 A. It was the first time I heard that in reference to a  
04:26:34 16 shooting or a murder. I heard it several times after that  
04:26:38 17 too.

04:26:38 18 Q. Counsel asked you some questions about that Earl got a get  
04:26:43 19 out of jail free card. How much time did Earl spend in  
04:26:46 20 custody?

04:26:47 21 A. I am not really good at doing the math as I sit here. But  
04:26:51 22 he was in custody since we arrested him in May of '85 up until  
04:26:58 23 14.

04:26:59 24 Q. So approximately 30 years?

04:27:01 25 A. That's not a get out of jail free card to me.

04:27:05 1 Q. Counsel asked you some questions about the warrant for Mr.  
04:27:09 2 Fields was on the Vaughn/White case. Do you recall those?

04:27:11 3 A. Correct.

04:27:12 4 Q. When a warrant is obtained on an individual for a crime,  
04:27:19 5 is another crime poured onto that warrant?

04:27:23 6 A. One warrant will serve to arrest the individual for any  
04:27:26 7 number of other issues.

04:27:27 8 Q. Turning again to May 14th, 1985, what was your role with  
04:27:34 9 respect to your participation in the debriefing that day?

04:27:38 10 A. Basically, I was providing information to the state's  
04:27:43 11 attorneys and Murphy and the U.S. attorney as to nicknames of  
04:27:49 12 the El Rukns, Anthony was not the most articulate fellow out  
04:27:54 13 there, addresses. When he would say a building, he might just  
04:27:58 14 refer to it as the Minerva building, what does that mean,  
04:28:02 15 things of that nature.

04:28:03 16 Q. So you were being asked questions yourself by the others  
04:28:05 17 of law enforcement in the room?

04:28:07 18 A. That's correct.

04:28:07 19 Q. Counsel asked you questions about who brought up the Smith  
04:28:14 20 and Hickman homicide on May 14th, 1985. Who brought that up?

04:28:18 21 A. That would have been Anthony. That's how the debriefing  
04:28:21 22 was constructed. You tell us what you can tell us about.

04:28:25 23 Q. Counsel asked you questions about reports on the triple  
04:28:30 24 homicide, detectives Smith's reports?

04:28:32 25 A. That's correct.

04:28:33 1 MR. LOEVY: Objection, your Honor. Nobody said  
04:28:34 2 anything about the triple homicide.

04:28:35 3 THE COURT: Text message, the witness did.

04:28:37 4 MR. LOEVY: The reports?

04:28:38 5 THE COURT: Yes, he did.

04:28:39 6 MR. LOEVY: All right.

04:28:40 7 BY MR. NOLAND:

04:28:41 8 Q. Referring to those questions, you've seen reports of  
04:28:45 9 Detective Smith with respect to the triple homicide is that  
04:28:47 10 true?

04:28:48 11 A. That's correct.

04:28:48 12 Q. And where would those be located?

04:28:50 13 A. The Chicago Police Department records. Area 3 is no  
04:28:54 14 longer with us, but.

04:28:55 15 Q. With the file for the triple homicide?

04:28:57 16 A. That's correct.

04:28:58 17 Q. Counsel asked you some questions about clearing prints and  
04:29:06 18 suggesting that prints would clear right away back in May of  
04:29:09 19 1985. What was the process with respect to clearing of  
04:29:17 20 prints?

04:29:18 21 A. They were sent somewhere in Virginia to clear the prints.  
04:29:20 22 This was by fax. They weren't transmitted electronically as  
04:29:24 23 they are now. This all took time depending on how busy the  
04:29:29 24 lockup keepers were, how busy they were where the prints were  
04:29:33 25 being reviewed, it could take 24 hours, it could take 36

04:29:37 1 hours, it could take 40 hours, maybe.

04:29:40 2 MR. NOLAND: May I have a moment, your Honor?

04:29:41 3 THE COURT: Yes.

04:29:59 4 BY MR. NOLAND:

04:30:00 5 Q. Mr. Brannigan, I show you a note from Exhibit 72?

04:30:09 6 THE COURT: Defendants' or plaintiff's.

04:30:11 7 MR. NOLAND: Plaintiff's 72, your Honor.

04:30:13 8 BY MR. NOLAND:

04:30:13 9 Q. Mr. Brannigan, would that be a note of the interview of

04:30:18 10 Anthony Sumner with respect to the triple homicide?

04:30:20 11 A. That's correct. Wait. Hold it. Where are we at? I

04:30:30 12 can't read this. Okay. I got it.

04:30:41 13 Q. Without getting into details, is that a note of

04:30:45 14 referencing the offenders in the triple homicide?

04:30:46 15 A. That's correct.

04:30:47 16 Q. Including General Walker?

04:30:49 17 A. That's correct, yes, sir.

04:30:49 18 Q. There's another note from -- another note from plaintiff's

04:30:55 19 72 dealing with Smith/Hickman. Do you see that?

04:30:56 20 A. Yes, sir.

04:30:59 21 Q. And directing your attention, Mr. Brannigan, to the bottom

04:31:04 22 of the page, does it indicate that Sumner had been out

04:31:10 23 stalking them earlier, do you see that?

04:31:12 24 A. Yes, sir.

04:31:12 25 Q. Thank you.



04:31:15 1

04:31:33 2 MR. NOLAND: That's all. Thank you, your Honor.

04:31:35 3 THE COURT: Anything else Mr. Loevy?

04:31:37 4 - - -

04:31:37 5 DANIEL BRANNIGAN, RECROSS-EXAMINATION

04:31:37 6 BY MR. LOEVY:

04:31:38 7 Q. You were asked about the good exercise sticking in your  
04:31:42 8 mind?

04:31:42 9 A. Yes, sir.

04:31:42 10 Q. If you weren't even sure you heard it, how could it stick  
04:31:45 11 in your mind?

04:31:46 12 A. Reviewing all those notes and discussing the interviews  
04:31:49 13 and the debriefing with Murphy and the state's attorneys that  
04:31:51 14 were all present.

04:31:52 15 Q. All right. You were -- you mentioned Mr. Smith's police  
04:31:56 16 reports had to do with the triple homicide, right?

04:31:57 17 A. Mr. Smith, the one that came out to area three, yes, sir.  
04:32:04 18 East Cleveland, yes, sir.

04:32:04 19 Q. Then I obviously misunderstood. I thought you said Smith  
04:32:08 20 wrote police reports about Sumner's debriefing in the  
04:32:13 21 Smith/Hickman case?

04:32:13 22 A. Okay. I got you. That was the confusion back then.

04:32:16 23 Q. I apologize for my confusion.

04:32:18 24 So we have Smith's police reports on the triple, but  
04:32:21 25 my question is who wrote the police reports on Sumner's

04:32:24 1 information about Smith/Hickman?

04:32:28 2 MR. NOLAND: Judge, I believe beyond the scope.

04:32:30 3 THE COURT: No, it isn't. Overruled.

04:32:32 4 THE WITNESS: I don't remember who wrote the reports  
04:32:34 5 on that.

04:32:35 6 BY MR. LOEVY:

04:32:35 7 Q. Should there be police reports?

04:32:36 8 A. Yeah, sure. On the triple -- I mean, on the Smith/Hickman  
04:32:41 9 case, there are reports on it, yes, sir it.

04:32:43 10 Q. Should there be police reports for what Sumner originally  
04:32:48 11 told the police, sir?

04:32:49 12 A. I imagine they're there.

04:32:51 13 Q. Have you ever seen anybody in the 30 years since?

04:32:53 14 A. I'm sure I have. I can't recall right now as I sit here.

04:32:57 15 Q. Because you can't imagine there wouldn't be police reports  
04:33:00 16 detailing this information?

04:33:03 17 MR. KULWIN: Objection.

04:33:04 18 THE COURT: Overruled.

04:33:04 19 THE WITNESS: Police reports detailing?

04:33:06 20 BY MR. LOEVY:

04:33:07 21 Q. Detailing Anthony Sumner's implication of Nate Fields in  
04:33:11 22 the double homicide of Fuddy and Hickman, there has to be such  
04:33:14 23 police reports, correct?

04:33:14 24 A. I'm sure there's something mentioned there.

04:33:17 25 Q. You were shown some notes, defendants' 72, pages 11

04:33:22 1 through 12. Do you remember Mr. Noland showing you those  
04:33:25 2 notes?

04:33:25 3 A. Yes, sir.

04:33:25 4 Q. Do you know why these weren't turned over to the criminal  
04:33:28 5 defendant in the case, Mr. Fields?

04:33:29 6 MR. KULWIN: Objection, Judge.

04:33:30 7 THE COURT: The question is do you know.

04:33:33 8 THE WITNESS: Do I know, no.

04:33:35 9 BY MR. LOEVY:

04:33:36 10 Q. Would the policies and practices of the Chicago Police  
04:33:38 11 Department have required someone who took these notes to turn  
04:33:41 12 them over to the criminal justice program as part of the  
04:33:48 13 prosecution?

04:33:48 14 A. I thought they were.

04:33:49 15 Q. You were asked about whether Sumner was asked about  
04:33:53 16 Smith/Hickman or whether he brought it up. Do you remember  
04:33:56 17 both sides asking you those questions?

04:33:57 18 A. Yes, sir.

04:33:57 19 Q. Isn't it true you testified under oath that Sumner was  
04:34:01 20 asked about Smith/Hickman before he was opening up about  
04:34:05 21 Smith/Hickman?

04:34:05 22 A. My recollection of the debriefings is tell us what you  
04:34:12 23 know about this case, tell us what you know about that case,  
04:34:14 24 tell us what you know --

04:34:16 25 Q. I'm talking about your testimony, sir.

04:34:18 1 A. I'm just telling you what I recall now.

04:34:20 2 Q. All right.

04:34:20 3 A. He was --

04:34:21 4 Q. You asked?

04:34:22 5 A. Telling us what he remembered.

04:34:23 6 Q. You were asked about Mr. Hawkins getting 30 years and that

04:34:26 7 being a good deal. Of course, he committed 10 to 15 murders?

04:34:31 8 A. I'm not sure of his exact body count, but he committed a

04:34:36 9 lot of murders, yes, sir.

04:34:36 10 Q. The Vaughn/White murder alone could justify 30 years,

04:34:41 11 right?

04:34:41 12 A. Yes, sir, it justified the death penalty when it was done.

04:34:43 13 Q. All right. So he is now free, right?

04:34:46 14 A. That's correct.

04:34:47 15 Q. And the last 12 years that got knocked off his sentence --

04:34:50 16 by the way, strike that, if I may.

04:34:52 17 What was your understanding when he was supposed to

04:34:54 18 get out of prison?

04:34:55 19 A. He would have been 72 years old. I forget what that

04:34:58 20 calculated to, but that was always the number that I was told.

04:35:01 21 Q. All right. But he got out before 60, didn't he?

04:35:04 22 A. Yes, sir.

04:35:05 23 Q. And the last 12 years that got shaved off his sentence

04:35:08 24 were a result of a series of deals to testify against Nathson

04:35:12 25 Fields isn't that true, sir?

04:35:13 1 A. That's not my understanding, no.

04:35:15 2 Q. When did he get his first deal to get out sooner?

04:35:18 3 A. I am not -- I'm not certain what deals were cut or what  
04:35:25 4 arrangements were made and how the parole commission came up  
04:35:29 5 with letting him out. I am not aware of their numbers.

04:35:32 6 Q. Would you be surprised that the only cuts he got in his  
04:35:35 7 plea deals was testifying against Mr. Fields, you can't say  
04:35:42 8 that you know that?

04:35:42 9 A. I don't know that, sir.

04:35:43 10 MR. LOEVY: I don't have anything else.

04:35:44 11 THE COURT: Mr. Noland, anything else?

04:35:46 12 - - -

04:35:46 13 DANIEL BRANNIGAN, REDIRECT EXAMINATION

04:35:46 14 BY MR. NOLAND:

04:35:47 15 Q. Mr. Brannigan, how many murders did Mr. Hawkins help  
04:35:51 16 solve?

04:35:52 17 A. Not just the murders, but the shootings, general  
04:35:57 18 information on the organization.

04:35:57 19 Q. Would it be fair to say over 20?

04:35:59 20 A. That would be a safe number, I believe, yes, sir.

04:36:03 21 Q. Mr. Brannigan, Mr. Loevy asked you about notes. Have you  
04:36:07 22 seen this note relative to the Smith/Hickman homicide,  
04:36:10 23 correct?

04:36:12 24 THE COURT: Defendant's Exhibit 70 for the record.

04:36:15 25 THE WITNESS: Yes, sir.

04:36:18 1 BY MR. NOLAND:

04:36:18 2 Q. And is this one of the notes you were referring to is that  
04:36:21 3 you saw on May 14th, 1985?

04:36:23 4 A. Correct.

04:36:27 5 MR. NOLAND: No further questions.

04:36:27 6 MR. LOEVY: Your Honor, may I?

04:36:29 7 THE COURT: I am going to have to see you at sidebar.

04:36:32 8 THE COURT: All right.

04:36:35 9 (The following proceedings were had at sidebar outside the  
04:36:37 10 hearing of the jury:)

04:36:37 11 THE COURT: What do you intend to ask.

04:36:42 12 MR. LOEVY: Two questions. First of all, is he  
04:36:44 13 claiming to have an independent recollection that he saw this  
04:36:46 14 document, that's what he just elicited, that's a big point,  
04:36:49 15 and if he says yes, I'm going to ask him did you notice  
04:36:52 16 anything about it.

04:36:53 17 THE COURT: Okay. Fine.

04:36:54 18 MR. LOEVY: The second point is you put a lot of  
04:36:56 19 people in prison, he made a lot of cases, but he testified --  
04:37:01 20 he put --

04:37:01 21 THE COURT: You are not going to get that out of this  
04:37:03 22 guy. You've applied enough of the Hawkins deal with this guy.  
04:37:09 23 You can ask the first question but not the second. I'm  
04:37:12 24 telling you. Fine. Say what you're going to say.

04:37:15 25 MR. LOEVY: He put a lot of people in prison, some of

04:37:18 1 whom he genuinely knew about and some of whom he didn't.

04:37:22 2 THE COURT: It's beyond the scope. Sustained.

04:37:24 3 (The following proceedings were had in open court in the  
04:37:27 4 presence and hearing of the jury:)

04:37:27 5 THE COURT: Proceed.

04:37:29 6 - - -

04:37:29 7 DANIEL BRANNIGAN, RECROSS-EXAMINATION

04:37:29 8 BY MR. LOEVY:

04:37:30 9 Q. Are you claiming, sir, showing you Defendant's Exhibit 70  
04:37:34 10 that as you sit there in this chair, you remember back in May  
04:37:37 11 of 1985 that you saw this document?

04:37:39 12 A. Yes, sir. Yes, sir.

04:37:42 13 Q. What is it about it that jogs your memory there? Is it  
04:37:45 14 the date?

04:37:46 15 A. Well, it's the date, I remember that there was all these  
04:37:49 16 notes and GPRs and we discussed them afterwards.

04:37:53 17 Q. Would it be more accurate to say look, I remember people  
04:37:58 18 had notes and GPRs, but I can't remember this is the document  
04:38:01 19 I saw?

04:38:01 20 A. It sure looks like the documents I saw.

04:38:03 21 Q. Did you notice that it was dated May 86 here submitted at  
04:38:07 22 the bottom?

04:38:08 23 A. Yes, sir.

04:38:08 24 Q. Did you notice that back in '85?

04:38:10 25 A. I learned of it later.

04:38:11 1 MR. LOEVY: I have no further questions, your Honor.

04:38:14 2 THE COURT: Do any of the jurors have any questions

04:38:16 3 for the witness? I don't see anybody writing. The witness is

04:38:21 4 excused.

04:38:23 5 Is the next -- is it a live witness?

04:38:26 6 MR. KULWIN: It's a reading, Judge.

04:38:29 7 THE COURT: How long is it? Which person?

04:38:32 8 MR. KULWIN: 50 pages.

04:38:36 9 THE COURT: Which person?

04:38:38 10 MR. KULWIN: Richard Buckles.

04:38:39 11 THE COURT: We are going to start. We are going to

04:38:41 12 get 10 minutes in. Let's go. This is testimony from which

04:39:02 13 trial?

04:39:03 14 MR. LOEVY: 86.

04:39:04 15 THE COURT: The 1986 trial.

04:39:17 16 MR. KULWIN: May I have one second, Judge? ^

04:39:59 17 Richard Buckles, by deposition.

04:39:59 18 - - -

04:39:59 19 RICHARD BUCKLES, DIRECT EXAMINATION, BY DEPOSITION

04:39:59 20 BY MR. KULWIN: (Reading:)

04:40:05 21 Q. Would you tell us your name.

04:40:06 22 A. Richard Buckles.

04:40:07 23 Q. How do you spell the last name?

04:40:09 24 A. B-u-c-k-l-e-s.

04:40:10 25 Q. Richard, how old are you?



04:40:11 1 A. 16.

04:40:11 2 Q. Now, Richard in November of 1984, were you convicted of a

04:40:16 3 U.U. as a juvenile; is that correct?

04:40:18 4 A. Yes, it is.

04:40:19 5 Q. And you went to St. Charles for a while?

04:40:21 6 A. Yes, I did.

04:40:22 7 Q. You stayed in St. Charles until August of 1985?

04:40:27 8 A. Yes, I did.

04:40:28 9 Q. Richard, you were also placed on probation as a juvenile

04:40:31 10 in 1983, correct?

04:40:33 11 A. Yes.

04:40:33 12 Q. That was for a burglary?

04:40:36 13 A. Yes.

04:40:36 14 Q. Richard, where were you living in April of 1984?

04:40:40 15 A. In Ida B. Wells.

04:40:43 16 Q. And where is Ida B. Wells located?

04:40:44 17 A. 39th and King Drive.

04:40:46 18 Q. Is part of Ida B. Wells also on Langley?

04:40:52 19 A. Yes, it is.

04:40:53 20 Q. Are you familiar with a building 706 East 39th Street?

04:40:58 21 A. Yes.

04:40:59 22 Q. Where is that in relation to where you live?

04:41:01 23 A. Across the street.

04:41:03 24 Q. Across the street?

04:41:04 25 A. Langley.

04:41:05 1 Q. Now, I want to direct your attention to April 28th, 1984.  
04:41:10 2 Do you remember where you were about 10:00 o'clock in the  
04:41:13 3 morning?  
04:41:14 4 A. Yes.  
04:41:14 5 Q. Where were you?  
04:41:15 6 A. In my window.  
04:41:16 7 Q. Did you see anybody that you knew about 10:00 o'clock in  
04:41:19 8 the morning?  
04:41:19 9 A. Yes.  
04:41:19 10 Q. Who did you see?  
04:41:20 11 A. Fuddy.  
04:41:21 12 Q. Did you know Fuddy's real name?  
04:41:23 13 A. Yes.  
04:41:24 14 Q. What is his real name?  
04:41:26 15 A. Jerome Smith.  
04:41:27 16 Q. How long had you known Fuddy?  
04:41:29 17 A. For about five years.  
04:41:30 18 Q. What was Fuddy doing when you first saw him?  
04:41:33 19 A. Walking through my backyard.  
04:41:35 20 Q. Could you tell where he was going?  
04:41:38 21 A. To his building.  
04:41:39 22 Q. What was his building?  
04:41:40 23 A. 706.  
04:41:41 24 Q. What did you do after you saw Fuddy walk to 706?  
04:41:44 25 A. What did I see him do?

04:41:46 1 Q. What did you do after you saw Fuddy go to 706?

04:41:50 2 A. I waited for a few minutes, then I went to 706.

04:41:53 3 Q. And when you say you went to 706, where exactly did you

04:41:56 4 go?

04:41:56 5 A. To the corner.

04:41:58 6 Q. The corner of what streets?

04:42:00 7 A. Langley, closest corner to the building.

04:42:03 8 Q. All right. I'm going to ask you to look at this drawing

04:42:06 9 here. Do you see what is in that drawing?

04:42:09 10 A. Yes, sir, I do.

04:42:10 11 Q. Do you recognize what is in that drawing?

04:42:12 12 A. Yes, I do.

04:42:13 13 Q. What do you recognize that to be?

04:42:14 14 A. 706.

04:42:16 15 Q. Do you see on the corner -- do you see on there the corner

04:42:21 16 that you are talking about?

04:42:22 17 A. Yes, I do.

04:42:23 18 Q. I'm going to ask you to take this pen, just step-off

04:42:26 19 there, put your initials RB in the corner you walked to.

04:42:32 20 All right. Now, Richard, when you got to that

04:42:35 21 corner, could you see anybody that you know?

04:42:39 22 A. Yes, I did.

04:42:40 23 Q. Who did you see that you knew?

04:42:41 24 A. I saw Fuddy and Talman.

04:42:44 25 Q. When you say Fuddy, is that the same Jerome Smith that you

04:42:48 1 were talking about?

04:42:48 2 A. Yes, it is.

04:42:49 3 Q. When you say Talman, who are you talking about?

04:42:51 4 A. The other person who was standing up under the building.

04:42:54 5 Q. Did you know Talman?

04:42:55 6 A. Yes, I did.

04:42:56 7 Q. How long had you known Talman?

04:42:58 8 A. For about two years.

04:42:59 9 Q. Do you see on that picture people's No. 5 where Fuddy was

04:43:03 10 standing?

04:43:03 11 A. Yes, I do.

04:43:04 12 Q. Why don't you come off the witness stand, why don't you

04:43:09 13 come off the witness stand and just point -- no, not yet. We

04:43:13 14 don't have that one. Wait a second.

04:43:17 15 And just point to where you saw Fuddy standing?

04:43:22 16 A. Right there where an F is at.

04:43:24 17 Q. Do you see on there where Talman was standing?

04:43:27 18 A. Yes, I do.

04:43:27 19 Q. Why don't you point to that.

04:43:31 20 Now, Richard what was Fuddy doing when you saw him?

04:43:35 21 A. Talking to Talman.

04:43:36 22 Q. And which way was he facing?

04:43:38 23 A. To the back of 706, back is up against the wall.

04:43:42 24 Q. Which which was Talman facing?

04:43:45 25 A. Through the breezeway.

04:43:46 1 Q. Was he looking at Fuddy?

04:43:47 2 A. No, he was looking like across the street.

04:43:49 3 Q. Across 39th Street?

04:43:51 4 A. Yes.

04:43:51 5 Q. While you were standing there watching Fuddy and Talman,

04:43:54 6 did you see anything unusual?

04:43:55 7 A. Yes, I did.

04:43:56 8 Q. What did you see?

04:43:56 9 A. I saw two men come from the back of the breezeway with ski

04:44:01 10 masks and guns in their hands.

04:44:03 11 Q. All right. Were these two men black or white?

04:44:06 12 A. They was black.

04:44:07 13 Q. Can you describe the two men?

04:44:08 14 A. Yes, I can.

04:44:09 15 Q. How would you describe them, the two men?

04:44:12 16 A. One was tall, light skinned had on a right jacket and blue

04:44:19 17 pants.

04:44:20 18 Q. And he had is a ski mask on?

04:44:22 19 A. Yes, he had.

04:44:23 20 Q. Did he have anything in his hand?

04:44:24 21 A. Yes, he did.

04:44:25 22 Q. What did he have in his hand?

04:44:26 23 A. He had a gun in his hand.

04:44:28 24 Q. Now, when you say he was tall, how much taller was he then

04:44:31 25 you or was he taller than you?

04:44:33 1 A. Yes, he was taller than me.

04:44:35 2 Q. About how tall are you?

04:44:37 3 A. About five, six.

04:44:38 4 Q. How much taller is this guy than you?

04:44:40 5 A. A couple of inches.

04:44:41 6 Q. Now, the other guy, was he taller or shorter than the

04:44:46 7 light complected going to?

04:44:47 8 A. Shorter.

04:44:47 9 Q. Was he bigger or smaller than the light complected guy?

04:44:50 10 A. He was bigger.

04:44:51 11 Q. What was his complexion like?

04:44:52 12 A. He was dark skinned, he had on a blue jacket, blue pair of

04:44:57 13 pants a ski mask and a gun in his hand.

04:45:00 14 Q. What is the next thing you saw happen, Richard?

04:45:02 15 A. I saw the guy in the red jacket walk up behind Talman.

04:45:05 16 Q. What did he do when he walked up behind Talman?

04:45:08 17 A. He pointed the gun at Talman, at his back, at the back of

04:45:13 18 his neck where his head.

04:45:14 19 Q. Why don't you stand up and show the judge where you were

04:45:17 20 pointing?

04:45:17 21 A. About -- about back here and up here.

04:45:20 22 Q. What is the next thing that happened?

04:45:22 23 A. He fired.

04:45:23 24 Q. Did you see what happened to Talman when this guy fired?

04:45:26 25 A. Yes, I did.

04:45:27 1 Q. What happened?

04:45:27 2 A. Talman fell.

04:45:29 3 Q. Could you see Fuddy at that point?

04:45:31 4 A. Yes.

04:45:31 5 Q. Did you see what Fuddy tried to do?

04:45:33 6 A. Yes, I did.

04:45:35 7 Q. What did Fuddy tried to do?

04:45:38 8 A. Fuddy looked to see what happened.

04:45:39 9 Q. What happened then?

04:45:40 10 A. The guy in the red jacket shot Fuddy.

04:45:44 11 Q. What did Fuddy do when she was shot?

04:45:46 12 A. He slipped in the mud and fell.

04:45:48 13 Q. What is the next thing you saw happened?

04:45:50 14 A. Both of the guys walked unto Talman, I heard about several

04:45:54 15 shots and then the guy in the red jacket walked up to Fuddy

04:45:56 16 and shot Fuddy, point the gun at Fuddy.

04:45:59 17 Q. Now, when both these guys walked up to Talman, was he on

04:46:02 18 the ground?

04:46:02 19 A. Yes, he was.

04:46:03 20 Q. How close were those two guys to Talman when they walked

04:46:06 21 up to him?

04:46:07 22 A. It was very close.

04:46:08 23 Q. And you heard several shots?

04:46:10 24 A. Yes.

04:46:10 25 Q. How close was the guy in the red jacket when he walked up

04:46:13 1 to Fuddy?

04:46:14 2 A. Standing right over him.

04:46:15 3 Q. Is that when he fired the last shot?

04:46:17 4 A. Yes, it was.

04:46:18 5 Q. What is the next thing you saw happen, Richard?

04:46:21 6 A. They pulled their ski masks up.

04:46:23 7 Q. When you say they, you mean both guys?

04:46:26 8 A. Yes, I do.

04:46:28 9 Q. Do you mean they pulled their ski masks up, show the

04:46:31 10 judge?

04:46:31 11 A. They pulled them up like this and looked around.

04:46:33 12 Q. Could you see their faces at that point?

04:46:35 13 A. Yes.

04:46:36 14 Q. Did you recognize either one of the two guys?

04:46:38 15 A. Yes.

04:46:39 16 Q. Who did you recognize?

04:46:40 17 A. Monday sear.

04:46:43 18 Q. Had you known moss injury before?

04:46:46 19 A. Yes, I did.

04:46:47 20 Q. Where?

04:46:48 21 A. In the Ida B. Wells.

04:46:48 22 Q. Do you see Mansur in the courtroom?

04:46:52 23 A. Yes.

04:46:53 24 Q. Would you point him out, please?

04:46:54 25 A. Right there.



04:46:55 1 Q. Which guy are you pointing to, Richard?

04:46:57 2 A. The one right there.

04:46:58 3 Q. This guy?

04:46:59 4 A. Yes.

04:46:59 5 Q. Richard, do you recognize anybody else in the courtroom?

04:47:03 6 A. No, I think he is the other shooter, but I am not sure.

04:47:07 7 Q. What is the next thing --

04:47:11 8 THE COURT: If this is a change of topics, this is a  
04:47:13 9 good place.

04:47:14 10 MR. KULWIN: Yes, it is.

04:47:15 11 THE COURT: We will stop right here. We will resume  
04:47:17 12 at probably going to be I want to say 9:35 or some tomorrow.  
04:47:23 13 Don't discuss the case with each other or anybody tells. I  
04:47:26 14 will be right back out. (The jury leaves the courtroom.)

04:48:03 15 THE COURT: What's the lineup for tomorrow.

04:48:04 16 MR. LOEVY: We have a little problem. I'll answer  
04:48:07 17 your question first.

04:48:09 18 MR. ART: You won't. They will.

04:48:11 19 THE COURT: The lineup for tomorrow?

04:48:13 20 MR. KULWIN: The lineup for tomorrow.

04:48:15 21 MR. MICHALIK: What we have so far, Judge, we will  
04:48:17 22 finish this reading and then we are going to have Jackie Clay.

04:48:22 23 THE COURT: That's also a reading?

04:48:23 24 MR. MICHALIK: No, no, no, that's a live witness. We  
04:48:27 25 will have I think judge Hines and we will have Robert Evans,

04:48:34 1 live witness.

04:48:35 2 THE COURT: Remind me who Evans is.

04:48:37 3 MR. MICHALIK: Pardon.

04:48:38 4 THE COURT: Remind me who Evans is.

04:48:40 5 MR. MICHALIK: Evans is one of the detectives from

04:48:42 6 the initial 1984 investigation.

04:48:44 7 THE COURT: All right.

04:48:44 8 MR. MICHALIK: And then I think we also have a

04:48:46 9 reading for Gerald Morris which.

04:48:50 10 THE COURT: Morris.

04:48:50 11 MR. MICHALIK: If there's time we will fit in.

04:48:52 12 THE COURT: All right.

04:48:53 13 MR. KULWIN: We will fit all of those in depending on

04:48:55 14 scheduling and somebody's late or something, we will put a

04:48:58 15 reading in.

04:48:58 16 THE COURT: All right.

04:48:59 17 MR. KULWIN: Judge, the issue that's been raised.

04:49:01 18 MR. LOEVY: Can I raise it because it's my issue.

04:49:03 19 MR. KULWIN: I'm going to raise it. You raised it

04:49:05 20 I'll tell it. On page 216 of the transcript.

04:49:08 21 THE COURT: Of which transcript?

04:49:09 22 MR. KULWIN: The one I was just reading.

04:49:10 23 THE COURT: Yes.

04:49:11 24 MR. KULWIN: When he identified --

04:49:13 25 THE COURT: Does someone have a copy I can look at?

04:49:15 1 MR. KULWIN: Yeah. Mr. . What's the page?

04:49:26 2 MR. KULWIN: 216.

04:49:28 3 THE COURT: 152, I'm there. Okay.

04:49:34 4 MR. KULWIN: When I read the identification, I didn't  
04:49:36 5 read Rueckert saying that he was identifying Earl Hawkins. I  
04:49:39 6 didn't read any of the be pointing. And they're upset because  
04:49:44 7 they think I did that on purpose. I have no problem starting  
04:49:47 8 over tomorrow at the prior page and say guy are you pointing  
04:49:51 9 to, Richard, the one right there, this going to, answer, yes,  
04:49:54 10 and then indicating for the record it was Earl Hawkins.

04:49:56 11 THE COURT: Okay.

04:49:57 12 MR. KULWIN: I thought it was clear that it was  
04:49:59 13 Mansoor from before. I didn't do with any malice or fore  
04:50:02 14 thought.

04:50:02 15 THE COURT: I didn't have a copy of the transcript.  
04:50:04 16 I was actually kind of surprised having had cases with  
04:50:08 17 Mr. Rueckert, not as a prosecutor, but as a defense attorney  
04:50:10 18 that he would not have put that on the record. So, yeah, you  
04:50:13 19 should read that.

04:50:14 20 MR. KULWIN: I will do that, Judge. I only did it  
04:50:16 21 because prior to that, there was a number of times where  
04:50:19 22 Mr. Rueckert said indicating this, indicating that, indicating  
04:50:22 23 this. And I hadn't read them. It's on me. It wasn't done  
04:50:27 24 with any malice or fore thought to confuse the jury. I don't  
04:50:31 25 think they will be confused. May I finish.

04:50:33 1 MR. LOEVY: It's my issue.

04:50:34 2 MR. KULWIN: Since I don't believe that anybody is  
04:50:36 3 confused that Mansoor is Earl Hawkins at this point. I'll go  
04:50:40 4 back and fix it.

04:50:41 5 MR. LOEVY: Your Honor, it was our issue, and it was  
04:50:43 6 yellow, and he was supposed to read indicating for the record,  
04:50:46 7 Judge, the in court identification of the defendant Earl  
04:50:49 8 Hawkins and our concern is this jury just got sent home with  
04:50:52 9 some ambiguity about whether Buckles identified somebody in  
04:50:57 10 Nate's trial.

04:50:57 11 THE COURT: We are going to correct this in the  
04:50:59 12 morning. I will just say, I assume that what the highlighting  
04:51:04 13 on this thing is that's the parts that everybody has agreed to  
04:51:07 14 read, to let's just read the highlighted parts.

04:51:10 15 MR. KULWIN: No problem, Judge. Thank you.

04:51:12 16 THE COURT: Remind me in the morning. I am going to  
04:51:14 17 keep this transcript up here.

04:51:15 18 MR. KULWIN: Sure.

04:51:15 19 THE COURT: Remind me in the morning and I am going  
04:51:17 20 to explain that we are going to get backup because a comment  
04:51:20 21 by one of the lawyers was left out and we are going to go back  
04:51:23 22 and reread the last page.

04:51:24 23 MR. KULWIN: No problem, Judge.

04:51:26 24 MS. KATZ: Your Honor, just --

04:51:27 25 THE COURT: Just reminders. By 7:00 o'clock, I need

04:51:31 1 whatever requests I'm going to get from the defendants for  
04:51:33 2 additional time justified the same way I asked the plaintiff  
04:51:36 3 to justify it and I also need sometime before I guess before  
04:51:42 4 11:59 and 59 seconds whatever the Rule 50 motions are.

04:51:45 5 MR. KULWIN: I wouldn't be expecting a big heavy one.

04:51:47 6 THE COURT: Understood.

04:51:48 7 MR. LOEVY: When we made our motion.

04:51:49 8 THE COURT: None of them are heavy because they're  
04:51:52 9 all just bits.

04:51:53 10 MR. KULWIN: Point is well taken, Judge.

04:51:55 11 MR. LOEVY: When we made our motion, we represented  
04:51:56 12 the witnesses that we had understood that the defendants were  
04:51:58 13 going to call.

04:51:59 14 THE COURT: Yeah.

04:51:59 15 MR. LOEVY: And the defendants were not totally  
04:52:01 16 committed to that.

04:52:02 17 THE COURT: Which motion are you talking about?

04:52:03 18 MR. LOEVY: Our motion for more time. We laid out  
04:52:05 19 the witnesses.

04:52:06 20 THE COURT: If you're trying to prep me for you  
04:52:08 21 wanting more time, just save it until I get something from  
04:52:12 22 you.

04:52:13 23 MR. LOEVY: I am not trying to prep you for that.  
04:52:16 24 What I am trying to say, your Honor, the defendants have  
04:52:18 25 disclosed two experts as potentials that were not contemplated

04:52:21 1 when I made that motion, so it is a prep for the motion that's  
04:52:25 2 coming to you.

04:52:25 3 THE COURT: Look, what I am going to say to you is  
04:52:27 4 what I said in the order. And by the way, you did it finally  
04:52:33 5 on Brannigan, okay?

04:52:35 6 MR. LOEVY: What did I do?

04:52:36 7 THE COURT: You were compact. I mean, seriously, you  
04:52:44 8 were compact. The purpose, it's just like getting page limits  
04:52:48 9 on appellate briefs which everybody has had before they were  
04:52:51 10 lawyers. The purpose is to for people to make judgments and  
04:52:54 11 you don't ask questions of every witness that you could  
04:52:57 12 possibly ask. That's why the drafters of the rule of civil  
04:52:59 13 procedure invented depositions, that's not why they invented  
04:53:03 14 trials. I understand what you're saying. Don't assume that  
04:53:05 15 you're going to get more time. Just like you shouldn't have  
04:53:09 16 assumed before that you were ever going to get more time than  
04:53:12 17 I gave you before and behave accordingly, and if there's  
04:53:15 18 something that you have to ask me at some point in time, I'll  
04:53:18 19 deal with it when you ask me, not at some point in time in the  
04:53:23 20 hypothetical. See you tomorrow. (The trial was adjourned at  
04:53:28 21 4:50 p.m. until 9:35 a.m. on December 6, 2016.)

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